

Anne-Ly Annuk, *pro se*
Otero County Processing Center
26 McGregor Range Road
Chaparral, NM 88081

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

FEB 04 2026

MITCHELL R. ELFERS
CLERK

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Anne-Ly Annuk

Petitioner,

v.

PAMELA BONDI, Attorney General
of the United States; KRISTI NOEM,
Secretary of the Department of
Homeland Security ("DHS"); MARY
DE ANDA-YBARRA, El Paso Field
Office Director Immigration and
Customs Enforcement and Removal
Operations ("ICE/ERO"); TODD
LYONS, Acting Director of
Immigration Customs Enforcement
("ICE") U.S. Immigration and
Customs Enforcement; DORA
CASTRO, Warden of the Otero County
Processing Center,

Respondents.

Case No. 26 cv 269 KWR/DLM

**Petition For Writ of Habeas
Corpus Pursuant to 28 U.S.C. §
2241**

INTRODUCTION

1. Petitioner Anne-Ly Annuk is a noncitizen in the custody of Immigration and Customs Enforcement (ICE) at the Otero County Processing Center. ICE arrested her on the porch of her house in Minneapolis, Minnesota, as part of “Operation Metro Surge,” a mass enforcement operation that resulted in the detention of more than 3,000 noncitizens, and in which two United States citizens died.¹ ICE entered Petitioner’s home without her consent and without a judicial warrant. When Petitioner demanded to see a judicial warrant, officers refused. They then forcibly removed her from the steps of her residence, dragged her outside, placed her under arrest, and transported her to immigration custody. Petitioner’s seizure was accomplished without a warrant, without consent, and without exigent circumstances, in violation of the Fourth Amendment to the United States Constitution.

2. Petitioner arrived in the U.S. 28 years ago after being inspected and admitted at the Port of Entry on a J-1 visa.

3. Although Petitioner is not an “arriving alien,” Respondents have nevertheless misclassified her as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025). At the same time, the Executive Office for Immigration Review

¹ See Melissa Hellmann, *Eight people have died in dealings with ICE so far in 2026. These are their stories*, The Guardian (U.S. ed., Jan. 28, 2026), https://www.theguardian.com/us-news/2026/jan/28/deaths-ice-2026-?CMP=share_btn_url

(EOIR) has refused to provide interpretation services in Petitioner's native language, Estonian, and has stated that no bond hearing will be held in the future unless Petitioner identifies another language in which she can proceed. Together, these actions subject Petitioner to prolonged and potentially indefinite detention without any opportunity for a custody determination.

4. The Due Process Clause of the Fifth Amendment forbids such arbitrary and prolonged detention. Respondents have never justified Petitioner's continued detention at a hearing before a neutral decisionmaker with any evidence of danger or flight risk.

5. The Fourth Amendment independently prohibits the Government from initiating civil immigration detention through an unlawful residential seizure. Because Petitioner's current custody is the direct product of a warrantless and unconstitutional entry into her home and arrest at her residence, her continued detention is constitutionally tainted and cannot be sustained.

6. Accordingly, Petitioner asks this Court for a writ of habeas corpus to vindicate her right to due process and to seek relief from her continued arbitrary detention. She requests that the Court declare her continued detention unconstitutional as applied to her and to order her immediate release.

JURISDICTION

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. §

1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

9. Venue is proper because Petitioner is in Respondents' custody at the Otero County Processing Center in Chaparral, New Mexico and Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

ORDER TO SHOW CAUSE: REQUIREMENTS OF 28 U.S.C. §§ 2241,

2243

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

11. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law

of England, 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).

12. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

13. Petitioner is a 55-year-old citizen of Estonia born on 

Petitioner is detained at the Otero County Processing Center in New Mexico.

14. Respondent Mary De Anda-Ybarra is the Field Office Director for the El Paso Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The El Paso Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens.

Respondent De Anda-Ybarra is a legal custodian of Petitioner.

15. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of Respondent De Anda-Ybarra and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

17. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

18. Respondent Dora Castro is the Warden of the Otero County Processing Center, where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

19. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

20. “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).

21. This fundamental principle of our free society is enshrined in the Fifth Amendment’s Due Process Clause, which specifically forbids the Government to “deprive[]” any “person . . . of . . . liberty . . . without due process of law.” U.S. Const. amend. V.

22. “[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, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (“[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings

conforming to traditional standards of fairness encompassed in due process of law”).

23. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 678.

24. Congress has implemented this constitutional balance through three mutually exclusive detention statutes.

25. First, individuals seeking admission at the border are detained without bond under 8 U.S.C. § 1225(b)(2), subject to humanitarian parole. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); 8 U.S.C. § 1182(d)(5)(A).

26. Second, individuals arrested inside the United States are placed in removal proceedings under 8 U.S.C. § 1229a and detained, if at all, under 8 U.S.C. § 1226. *Jennings*, 583 U.S. at 288–89. Because those proceedings often last months or years, § 1226(a) generally entitles detainees to a custody redetermination hearing before an Immigration Judge. 8 C.F.R. §§ 1003.19(a), 1236.1(d). This right is the constitutional baseline for § 1226 detention. The only narrow exception permits brief mandatory detention of certain noncitizens with qualifying criminal convictions who have conceded removability. *Demore v. Kim*, 538 U.S. 510, 513 (2003).

27. Third, once removal proceedings and appeals conclude and a final removal order is issued, detention is governed by 8 U.S.C. § 1231. That statute authorizes ninety days of mandatory detention during the removal period and

limited discretionary detention thereafter, which may not continue if removal is not reasonably foreseeable. *Zadvydas*, 533 U.S. at 699–700.

28. This framework has existed in its current form since the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which codified § 1226. Congress intended § 1226(a) to restate prior law authorizing arrest, detention, and release on bond. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (quoting H.R. Rep. No. 104-469, at 229 (1996)). That approach reflected nearly a century of practice allowing noncitizens inside the country to seek release while deportation was adjudicated. *See* 34 Stat. 904–05 (1907); 39 Stat. 874, 890–91 (1917); 66 Stat. 163 (1952).

29. Bond eligibility has therefore long applied to individuals arrested inside the United States regardless of how they entered. The agency confirmed in implementing IIRIRA that noncitizens present without admission or parole would be eligible for bond and bond redetermination. 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997). For nearly thirty years, DHS and DOJ adhered to that interpretation. *Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *4 n.9 (D. Mass. July 24, 2025).

30. In July 2025, DHS, in coordination with DOJ, directed Immigration Judges to reclassify bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees and to deny bond hearings on that basis. Some judges adopted that position, and detainees sought federal relief. Numerous courts, including courts

in the District of New Mexico, rejected the reclassification as unlawful and ordered prompt bond hearings.

31. On September 5, 2025, the Board of Immigration Appeals within DOJ issued *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), purporting to mandate this misclassification nationwide. Federal courts have declined to defer to that decision under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412–13 (2024) and have rejected it as contrary to law. *See, e.g., Chogllo Chafila v. Scott*, No. 25-437, 2025 WL 2688541, at *7 (D. Me. Sept. 21, 2025); *Hilario Rodriguez*, No. 25-12358, D.E. 22 at 4 n.4; *Sampiao*, No. 25-11981, 2025 WL 2607924, at *8 n.11; *Pizarro Reyes*, 2025 WL 2609425, at *7.

32. The Fourth Amendment provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,” and that “no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV. These protections apply to all persons within the United States, including noncitizens, regardless of immigration status. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984); *Almeida-Sanchez v. United States*, 413 U.S. 266, 273 (1973).

33. A warrantless arrest is presumptively unreasonable under the Fourth Amendment unless it falls within a carefully delineated exception. *Payton v. New York*, 445 U.S. 573, 586–87 (1980). When an arrest occurs at or near the

home, constitutional protections are at their apex, because “physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.” *Id.* at 585. Absent consent or exigent circumstances, law enforcement officers may not effect an arrest at a person’s home without a judicial warrant supported by probable cause. *Id.* at 590; *Steagald v. United States*, 451 U.S. 204, 211–12 (1981). As one District Court recently explained in a habeas case arising from an immigration arrest at a residence, “Administrative warrants issued by the executive branch to itself do not pass probable cause muster. That is called the fox guarding the henhouse. The Constitution requires an independent judicial officer.” *Conejo Arias v. Noem*, No. SA-26-CV-415-FB at 2 (W.D. Tex. Jan. 31, 2026).

34. These principles apply with full force to immigration enforcement. Although immigration officers possess statutory authority to make warrantless arrests in limited circumstances, that authority remains subject to the Fourth Amendment. 8 U.S.C. § 1357(a); *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975). An administrative warrant issued by the Department of Homeland Security is not a substitute for a judicial warrant for purposes of entering a home or effecting an arrest there. *Lopez-Rodriguez v. Mukasey*, 536 F.3d 1012, 1017–18 (9th Cir. 2008); *United States v. Madrid-Quezada*, 403 F. Supp. 3d 1016, 1021–22 (D.N.M. 2019).

35. The Supreme Court has also made clear that the home and its curtilage receive the same heightened Fourth Amendment protection. *Florida v. Jardines*,

569 U.S. 1, 6–7 (2013). A front porch is part of the curtilage of the home and lies within the area where Fourth Amendment protections are strongest. *Id.* at 7; *Collins v. Virginia*, 584 U.S. 586, 593 (2018). An arrest effected at the threshold of the home or on the front porch without a judicial warrant or exigent circumstances is constitutionally indistinguishable from an arrest inside the home. *Payton*, 445 U.S. at 590; *United States v. Reeves*, 524 F.3d 1161, 1166–67 (10th Cir. 2008).

36. Although removal proceedings are civil in nature, constitutional violations by immigration officers are not insulated from judicial scrutiny. The Supreme Court has recognized that evidence obtained through egregious violations of the Fourth Amendment must be suppressed in immigration proceedings. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1050–51 (1984). A violation is egregious when officers engage in conduct that a reasonable officer should know is unconstitutional, including warrantless home arrests lacking consent or exigent circumstances. *Lopez-Rodriguez*, 536 F.3d at 1018–19; *Orhorhaghe v. INS*, 38 F.3d 488, 493 (9th Cir. 1994).

37. Where an individual is seized in violation of the Fourth Amendment and that unlawful seizure forms the basis for continued detention, habeas relief is appropriate. *Gerstein v. Pugh*, 420 U.S. 103, 111–12 (1975). The Constitution requires a prompt judicial determination of probable cause as a prerequisite to extended restraint of liberty. *County of Riverside v. McLaughlin*, 500 U.S. 44, 56 (1991). Detention that originates in an unlawful arrest is not reasonably

related to any legitimate governmental objective and therefore violates both the Fourth and Fifth Amendments. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

38. Accordingly, when immigration officers arrest a person at her home or its curtilage without a judicial warrant, without consent, and without exigent circumstances, the seizure is presumptively unreasonable. *Payton*, 445 U.S. at 586–87. When that unlawful seizure leads directly to prolonged immigration detention, the resulting custody is constitutionally tainted and cannot be sustained. *Lopez-Rodriguez*, 536 F.3d at 1018–19. The Fourth Amendment does not permit the Government to initiate civil immigration detention through means that would be plainly unlawful in any other law enforcement context.

FACTUAL BACKGROUND

39. Petitioner is a 55-year-old citizen and national of Estonia.

40. On April 8, 1998, Petitioner arrived in the United States on a J-1 visa and after being inspected was admitted.

41. Respondents alleged that Petitioner is being charged with having been admitted and inspected, however, removable from the United States under 8 U.S.C. § 1227(a)(1)(C)(i).

42. On January 5, 2026, ICE forced themselves into Petitioner's home in Minneapolis, Minnesota, dragged Petitioner from her home, and arrested Petitioner on the front porch of her home without a judicial warrant and without

consent or exigent circumstances.

43. Respondents then transported Petitioner to the Otero County Processing Center in New Mexico.

44. On January 30, 2026, Immigration Judge (IJ) at Otero County Processing Center stated that she was subject to mandatory detention, and, in the alternative, the immigration court would not conduct a bond hearing because no Estonian interpreter was available. The IJ further stated that no interpreter would be available in the future and instructed Petitioner to identify another language in which she could proceed, or the court would continue to decline to hold bond hearings in the future.

45. Petitioner does not speak any other language, except for her native Estonian.

46. 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 family and community.

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment Right to Due Process

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

48. Petitioner's detention by DHS violates her rights under the Due Process Clause of the Fifth Amendment to the United States Constitution.

49. Immigration detention violates due process if it is not reasonably related to the purpose of ensuring a noncitizen's removal from the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92, 699-700 (2001); *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Where removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and is unlawful. *See id.* at 699-700.

50. The Supreme Court has also established that noncitizens in deportation or removal proceedings are just as entitled to due process protections as anyone else. *See Zadvydas*, 533 U.S. at 690 (2001) ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem. The Fifth Amendment's Due Process Clause forbids the Government to 'depriv[e]' any 'person . . . of . . . liberty . . . without due process of law.'").

51. Here, there is no reason to justify Petitioner's detention. Petitioner has been living in the United States for 29 years, where she has very strong ties to the community.

52. Accordingly, Petitioner has been unable to obtain a bond hearing or a custody redetermination from the Immigration Court. Therefore, Petitioner is being held in custody without the possibility of having her case reviewed by an IJ, despite not being subject to mandatory detention.

53. Here, Petitioner has resided in the United States for nearly three decades.

54. In *Jennings v. Rodriguez*, the Supreme Court makes a clear distinction between noncitizens who are detained while entering the country and noncitizens who are already present in the United States. *Jennings v. Rodriguez*, 804 F. 3d 106. The opinion of the Supreme Court recognizes that “§ 1226 applies to aliens already present in the United States. . .” and that “§ 1226(a) authorizes the Attorney General to arrest and detain an alien ‘pending a decision on whether the alien is to be removed from the United States.’” § 1226(a). As long as the detained alien is not covered by § 1226(c), the Attorney General “may release” the alien on “bond . . . or conditional parole.” § 1226(a). Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention. See 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1).

55. Here, Petitioner has been living in the United States for 28 years prior to her detention, and the reason for her current detention is not related to her first detention as an “applicant for admission.” In the present case, there is not the issue of a continued detention of someone who is trying to enter the country, but rather a new detention – on a new warrant – for someone who has been in the country for 29 years.

56. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of removability because they previously entered the country after being admitted. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

57. Therefore, Petitioner's detention itself in the absence of a bond hearing to determine if she poses a danger to community or a flight risk, violated her Fifth Amendment Due Process rights under the Constitution.

COUNT II
Violation of the Fourth Amendment of the United States Constitution
Unreasonable Seizure

58. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

59. Except at the border and its functional equivalents, the Fourth Amendment to the U.S. Constitution prohibits Respondents from conducting a detentive stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States. Likewise, the Fourth Amendment prohibits Respondents from making an arrest without probable cause to believe that a person is a noncitizen unlawfully in the United States.

60. Respondents violated these principles when they entered Petitioner's home in Minneapolis, Minnesota without consent and without presenting a judicial warrant. When Petitioner demanded to see a judicial warrant, Respondents refused. They instead forced themselves into her home, forcibly removed her from the steps of her residence, placed her under arrest, and transported her to New Mexico.

61. The prohibition set by the Fourth Amendment and reinforced by the Supreme Court in *Payton v. New York* establishes that the police, including Immigration and Customs Enforcement, are prohibited from entering a suspect's home without a warrant. *Payton v. New York*, 445 U.S. 573, 589-90, 596 (1980).

62. Notwithstanding this settled law, Immigration and Customs Enforcement has recently advanced an internal policy purporting to authorize warrantless entry into private residences based solely on administrative warrants. Federal courts have rejected that practice as unconstitutional. *See e.g., Conejo Arias v. Noem*, No. SA-26-CV-415-FB (W.D. Tex. Jan. 31, 2026) (holding that ICE violated the Fourth Amendment by using a five-year-old child as bait to induce the father to open the door and then entering the home without a judicial warrant or valid consent, rejecting reliance on an administrative warrant and emphasizing that only an independent judicial officer may authorize entry into a residence); *Garrison G. v. Bondi*, No. 26-CV-172 (JMB/DJF) (D. Minn. Jan. 17, 2026) (holding that Respondents violated the Fourth Amendment by forcibly entering the petitioner's home without consent and without a judicial warrant).

63. For these reasons, Petitioner's arrest and detention violate the Fourth Amendment of the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Declare that Petitioner's re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody;
- (4) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- (5) Grant any further relief this Court deems just and proper.

Dated: February 2, 2026



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