

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

VALENTINA DE LOS ANGELES TIAPA
MORENO

Petitioner,

v.

PAMELA BONDI, in her official capacity as Attorney General of the United States; KRISTI NOEM, in her official capacity as Secretary of Homeland Security; TODD LYONS, in his official capacity as Director of U.S. Immigration and Customs Enforcement; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARY DE ANDAYBARRA, in her official capacity as Field Office Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; DORA CASTRO, in her official capacity as Warden of the Otero County Processing Center;

Respondents.

Case No. _____

**VERIFIED EMERGENCY
PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

1. This case is what the Writ of Habeas Corpus is intended. For more than two weeks, Respondents have spirited 19-year-old Valentina De Los Angeles Tiapa Moreno (“Valentina”) around the country from detention center to detention center. Valentina is a material witness in a criminal investigation regarding ICE’s unreasonable use of force by ICE agents who shot her cousin through a closed door, tear-gassed her children, broke into her house, and took her away at gun point in a case of mistaken identity.¹ Less than two hours after Respondents learned that she

¹ Available at <https://www.startribune.com/mn-venezuelans-released-ice-shooting/601576035>. Should the Court wish to have any of the cited media articles filed on the docket, counsel will do so immediately.

had Minnesota counsel attempting to contact her at Fort Snelling in Minnesota, ICE updated its ICE Locator location showing the clients were now in El Paso, Texas. And the same day (yesterday, February 3) that a Minnesota court ordered she not be removed from the country because she was a material witness to an alleged crime charged by the United States, Respondents moved her again to Otero Processing Facility in New Mexico, and accelerated her regularly scheduled August 2026 immigration hearing to *this Friday* (February 6). Without immediate habeas relief, Valentina's constitutional and legal rights will continue to be violated, a court order barring her removal may be violated, and the integrity of both a criminal investigation into Respondents' officers and a federal criminal proceeding will be irreparably damaged.

2. Petitioner and her counsel have been diligently attempting to follow the rules surrounding jurisdiction of Writs of Habeas Corpus to secure her release from her unlawful detention as the government has moved her from state to state. A petition in the Western District of Texas was filed on January 19, 2026, which was dismissed earlier today after news of the transfer to New Mexico was received. *See V.T.M. v. Garcia*, No. 26-cv-00082-DCG (W.D. Tex.), ECF No. 8. Based on caselaw in the District of Minnesota asserting jurisdiction over ICE detainees taken in Minnesota and moved to other states, counsel filed a petition in the District of Minnesota on January 21, 2026, but that was dismissed by the Court today (February 4, 2026) for lack of jurisdiction. *See Valentina De Los Angeles T.M. v. Easterwood et al.*, Civ. No. 26-cv-542, ECF No. 12. But in the United States of America, the buck has to stop somewhere when a person is unconstitutionally detained as Petitioner has been, and Petitioner asks that it stop with this Court to stop this arbitrary movement of Petitioner from state to state, to return her home to Minnesota with her one-year old child.

3. Valentina is a Venezuela national who has lived in Minneapolis, Minnesota for roughly three years. She has no criminal history and came to the United States as an unaccompanied child, along with her own infant child, when she was 17 years old.

4. In March 2024, after Valentina presented herself to an immigration official at the border as an unaccompanied child, pursuant to 6 U.S.C. § 279(g)(2), the government placed her in a government-run humanitarian shelter for children for roughly a month. It then released Valentina to the care of her legal guardian in Minnesota, after finding that she was neither dangerous nor a flight risk. For two years, Valentina was living peacefully in Minnesota and caring for her young child, complying with all lawful orders with respect to her immigration status.

5. Despite Valentina's prior release from immigration custody and her upcoming hearing, Respondents arrested Valentina on Wednesday, January 14, 2026, while she was at her home with her one-year-old child; her cousin, Julio Cesar Sosa-Celis ("Julio"); Julio's wife, Indriany Syrisnoy Mendoza-Camacho ("Indriany"); and Julio and Indriany's three-year-old child. Her partner, Alfredo Alejandro Aljorna ("Alfredo"), called and reported that he was in his car, being pursued by a car with a masked man, who had tried to ram his car. Valentina urged him to come home, and Alfredo begged her to call the police.

6. Knowing he was being pursued by ICE agents and aware that ICE agents had killed a person less than a week earlier, Alfredo asked his family to call the Minneapolis Police Department so he could surrender to them at his home. He nearly made it home before he ran into a snowbank, then ran towards his front door. An ICE agent emerged from the chasing vehicle, tackled him, beat him, and began to choke him while he lay face down in the snow.

7. Seeing Alfredo in danger, Julio—who had been in the front yard with a snow shovel—ran out to try to free his friend from the man attacking him. Alfredo managed to free

himself, and Julio pulled him toward the front door, where their partners were watching through a slightly ajar door. At no time did either Alfredo or Julio use a weapon to try to defend themselves from the man.

8. Valentina, who was on the phone with 911, witnessed the man beating Alfredo while Alfredo lay face-down on the ground. The man and Alfredo then rolled around in the snow, with the man trying to choke Alfredo while they lay on the ground. Seeing his cousin in danger, Julio intervened and attempted to separate Alfredo, pulling Alfredo towards the house to get him away from his attacker. At no time did either Alfredo or Julio use or threaten to use a weapon, nor wield any object that could be deployed as a weapon, against the man assaulting Alfredo.

9. Julio and Alfredo attempted to reach the safety of their home—and nearly did. But as they entered the front door and tried to close it behind them, the ICE officer shot into the house through the front door—into the same room where Valentina’s young child was—and shot Julio in the leg.

10. Alfredo, Julio, Valentina, Indriany, and the two children sought refuge in an upstairs bedroom, barring the door with a heavy dresser. But within minutes, numerous ICE agents arrived outside the house, fired tear gas and/or smoke bombs through the bedroom window, then broke into the house.

11. Fearing for their lives and the lives of their children, and hearing the ICE agents in their home, Valentina and the other occupants of the home begged the agents not to kill them and said they would surrender. Still, when the agents entered the room, they trained their guns on Valentina, who was holding her child, and the others.

12. ICE agents detained Valentina, Indriany, Julio, Alfredo, a one-year old child, and a three-year old child. Respondents possessed no warrant of any kind, judicial or otherwise, to justify

their detention. In fact, ICE was not even justified in chasing Alfredo: they had mistaken him for someone else. *See* Jeff Day & Liz Sawyer, *FBI reveals how mistaken identity by ICE led to chase, shooting of Venezuelan immigrant in north Minneapolis*, Star Tribune (Jan. 21, 2026).² They had no warrant for Alfredo, no warrant for Julio; no warrant for Valentina or Indriany; and certainly no warrant for the two minor children, one of which is a U.S. citizen. Further, Respondents used unnecessary force and lethal tactics to enter her residence without any warrant, including discharging a weapon to open a door at a private residence, threats and intimidation, and the deployment of tear gas—which caused her child to have breathing issues.

13. No later than four days after Respondents took Valentina into immigration detention in St. Paul—and only an hour after learning counsel had been retained and attempted to confirm their client’s location via telephone with ICE on the afternoon of Saturday, January 17—the ICE locator showed that Valentina had in fact been transferred to the Camp East Montana detention center in El Paso, Texas.

14. In the days after January 14, 2026, DHS put out a very different version of events. As noted above, ICE agents assaulted Alfredo then shot Julio through a closed door after he had sought safety in their home. But in Respondents’ telling, their agents were attacked by three men and fired during that assault in self defense. Respondents’ story has quickly fallen apart. Two men, not three were detained in the incident; a third man Respondents claimed was involved was separately detained and has not been charged with a crime. A photograph of a bullet hole in Valentina’s front door and its resting place further back in the house mere inches from a crib and a bed where a baby and two small children slept refute Respondents’ self-defense ploy. Video of

² Available at: <https://www.startribune.com/fbi-reveals-how-mistaken-identity-by-ice-led-to-chase-shooting-of-venezuelan-immigrant-in-north-minneapolis/601567978>.

the incident from bystanders and Valentina herself contradict their story. *See, e.g.,* Alyssa Chen & Max Nesterak, *Videos add new detail to 2nd Minneapolis ICE shooting in a week*, Minnesota Reformer (Jan. 16, 2026);³ Liz Sawyer, *Two men, charged with assaulting agents in ICE shooting, re-detained after judge orders release*, Minneapolis Star Tribune (Feb. 4, 2026).⁴ DHS has also refused to cooperate in an investigation by the Minnesota Bureau of Criminal Apprehension into the ICE agent who shot Julio for unreasonable use of force.

15. Valentina would be a material witness in this investigation—so much so that BCA has agreed to sponsor Valentina for U Visa status to enable her to come forward and tell the truth.

16. Valentina is also a material witness in criminal charges brought by the government against Alfredo and Julio. On February 3, 2026, Federal District Court Judge Magnuson, who is presiding over that criminal case, enjoined the United States (and therefore Respondents) from removing any material witness, including Valentina, from the United States. *See Order, United States v. Aljorna*, No. 26-mj-23 (D. Minn., entered Feb. 3, 2026), ECF No. 43 (identifying Valentina as a material witness by her initials, V.T.M.).

17. Yet on the same day Judge Magnuson ordered Valentina not be removed from the United States, Respondents transferred Valentina from El Paso, where she had been held, and where she had access to her attorneys, to the Otero Processing Center in this District. When her counsel could not reach her, counsel inquired of Respondents' Minneapolis counsel of her whereabouts. Respondents' counsel falsely stated that she was still in Camp East Montana in El Paso, and did not respond to inquiries about the reason for her relocation.

³ Available at <https://minnesotareformer.com/2026/01/16/videos-add-new-detail-to-2nd-minneapolis-ice-shooting-in-a-week/>.

⁴ Available at <https://www.startribune.com/mn-venezuelans-released-ice-shooting/601576035>.

18. On February 4, 2026, the reason became clear. Valentina’s next immigration court appearance, regularly scheduled for August 2026, was suddenly moved up to this Friday, February 6, 2026. Upon information and belief, Respondents are—in direct defiance of Judge Magnuson’s order—are seeking to effect Valentina’s removal from the United States in contravention of her constitutional and statutory rights, and to thwart both a criminal investigation into an ICE officer and Alfredo and Julio’s ability to mount a defense to the charges against them. This is not Constitutional.

19. Valentina’s detention has been very difficult for both her and her family. She has been separated from her one-year old child and her partner who was also unlawfully detained—transferred to a detention center more than a thousand miles away from her home and loved ones. Her child is now under the care of her former legal guardian. This experience and her separation from her family have caused Valentina a tremendous amount of anxiety and fear.

20. Valentina’s detention is unlawful for at least four reasons.

21. First, due process requires that the government show, in a pre-deprivation hearing, materially changed circumstances before re-detaining Valentina. When the government released Valentina from its custody at a humanitarian shelter years ago, it determined that she was neither a flight risk nor a danger to the community. Since then, nothing has changed to undermine that determination. On the contrary, support for that determination has only strengthened: Valentina has built deep ties to the United States. She has never been arrested or convicted of a crime. As courts in this District have held in similar cases, Valentina’s detention without any pre-deprivation process violates his procedural due process rights and this alone warrants her immediate release. *See Danierov v. Noem*, No. 25-cv-1215, 2026 WL 45288 (D.N.M. Jan. 6, 2026) (holding once a noncitizen has been released, due process requires a pre-deprivation hearing at which DHS must

demonstrate a material change in circumstances showing danger or flight risk, and granting habeas relief under § 2241 because that did not happen); *Galvan Lopez v. Noem*, No. 25-cv-1288, 2026 WL 252513, at *6 (D.N.M. Jan. 30, 2026) (granting habeas petition where government “redetained [petitioner] without any individualized finding of danger or flight risk, and without any showing of materially changed circumstances, which “violates the Due Process Clause”).

22. Second, the government has no legitimate interest in detaining Valentina when she is neither a flight risk nor a danger—the only two constitutionally permissible reasons for immigration detention. Accordingly, her detention also violates her substantive due process rights, equally requiring her immediate release.

23. Third, Valentina was arrested without changed circumstances, without a warrant, and without probable cause that she was a flight risk, under unlawful enforcement procedures that multiple courts around the country have declared illegal. Since then, there has been no determination that any probable cause exists to justify her detention. This violates her Fourth Amendment rights, as well as statutes and regulation, similarly mandating her release.

24. Fourth, the government’s claim that Valentina is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) is untenable in light of the fact that she entered the United States, was previously detained and released from detention as an unaccompanied child—under an entirely separate statutory scheme—and has since lived in the United States for two years. Courts throughout the United States have overwhelmingly rejected Respondents’ expansive interpretation of 8 U.S.C. § 1225(b)(2)(A). *See, e.g., Barco Mercado v. Francis*, No. 25-cv-6582, 2025 WL 3295903, at *13–14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way); *Guerrero Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 3687757 (D. Mass. Dec. 19, 2025) (granting summary judgment and extending declaratory relief to

Massachusetts-based class of noncitizens wrongly subject to mandatory detention under the government's recent interpretation of § 1225(b)(2)(A)); *Maldonado Bautista v. Santacruz*, No. 25-cv-0187, 2025 WL 3678485 (C.D. Cal. Dec. 19, 2025) (similar, extending declaratory relief to nationwide class); *Maldonado v. Olson*, No. 25-cv-3142 (SRN/SGE), 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025); *Velasquez Salazar v. Dedos*, No. 25-cv-00835, 2025 WL 266729, at *4 (D.N.M. Sept. 17, 2025). This renders Valentina's current detention unlawful from its inception, in violation of the Immigration and Nationality Act ("INA") and her due process rights.

25. For these reasons, Valentina respectfully asks this Court to hold her arrest and detention unlawful; order her transferred back to Minnesota; order restoration of the status quo prior to her detention, *i.e.* release without restraints on her liberty; and enjoin Respondents from re-detaining her without meaningful pre-detention process.

PARTIES

26. Valentina is a 19 year-old Venezuelan national who entered the United States as an unaccompanied child and has been residing here since the age of 17. Prior to her arrest and detention, Valentina was living with her partner in Minneapolis, Minnesota, and serving as the primary care giver to her child. Presently, she is in the process of applying to obtain U Visa status, given her status as a material witness in a criminal investigation against one of Respondents' agents.

27. Respondent Pamela Bondi is sued in her official capacity as Attorney General of the United States. As Attorney General, Respondent Bondi oversees the immigration court system, including the immigration judges who conduct removal proceedings and bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering Valentina De Los Angeles Tiapa Moreno

removal and bond proceedings, and as such, she is a legal custodian of Valentina De Los Angeles Tiapa Moreno.

28. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security (“DHS”), the agency tasked with enforcing immigration laws, Secretary Noem is Valentina De Los Angeles Tiapa Moreno’s ultimate legal custodian.

29. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Valentina De Los Angeles Tiapa Moreno.

30. Respondent Mary De Anda-Ybarra is named in her official capacity as the Field Office Director for the ICE El Paso Field Office. As Field Office Director, Respondent De AndaYbarra oversees ICE’s enforcement and removal operations in West Texas and New Mexico. As such, she is a legal custodian of Valentina De Los Angeles Tiapa Moreno.

31. Respondent Dora Castro is the Warden of the Otero County Processing Center, where Valentina de los Angeles Tiapa Moreno is currently detained. She is a legal custodian of Valentina de los Angeles Tiapa Moreno and is named in her official capacity

JURISDICTION

32. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 (“The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require.”).

33. The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (the All Writs Act); and 28 U.S.C. § 2241 (habeas corpus).

34. Petitioners were apprehended within the State of Minnesota, conferring jurisdiction upon this Court. Slip Op. 2, *Sue H.*, No. 26-cv-416 (D. Minn. Jan. 20, 2026). Any subsequent

decision by Respondents to remove them from the jurisdiction to frustrate their efforts to exercise his due process rights and obtain habeas relief does not divest this Court of jurisdiction. *Id.*

35. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act), to grant injunctive and declaratory relief.

36. Venue is proper in the District of New Mexico under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because Petitioner is detained at a facility within this District.

37. Administrative exhaustion is unnecessary because it would be futile: it is Respondents' position that noncitizens in Petitioners' situation are subject to mandatory detention without access to a bond hearing, so she has no meaningful administrative remedies to exhaust.

LEGAL FRAMEWORK

A. The TVPRA Governs the Detention and Release of Unaccompanied Children

38. Because noncitizen youth who come to the United States without a parent are especially vulnerable, Congress granted them special protections through the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). *See* 8 U.S.C. § 1232. An unaccompanied child is a child who (A) lacks lawful immigration status in the United States; (B) is under the age of 18; and (C) has no available parent or legal guardian in the United States, or no such parent or legal guardian is available to provide care and physical custody. 6 U.S.C. § 279(g)(2).

39. Through the TVPRA, Congress amended the INA to guarantee unaccompanied children access to removal proceedings before an immigration judge, protecting them from expedited removal by an immigration officer without a hearing. 8 U.S.C. § 1232(a)(5)(D).

Therefore, 8 U.S.C. § 1229a is the only process for determining whether an unaccompanied child can stay in the United States or be removed. 8 U.S.C. § 1229a(a)(3).

40. The TVPRA requires the Department of Health and Human Services, through the Office of Refugee Resettlement (“ORR”), to manage the care and custody of unaccompanied children. 8 U.S.C. § 1232(c)(2). The statute requires ORR to place unaccompanied children “in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A). Before releasing an unaccompanied child from its custody, the government must “consider danger to self, danger to the community, and risk of flight.” *Id.*; *see also* 6 U.S.C. § 279(b)(2)(A). ORR may release the unaccompanied child to a “sponsor” who already lives in the United States, so long as these and other criteria are satisfied. *Id.*; *see also* 45 C.F.R. § 410.1201.

CAUSES OF ACTION

FIRST CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the US. Constitution Procedural Due Process

41. Valentina repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

42. Even “[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner.” *Salerno*, 481 U.S. at 746.

43. Courts use the three-factor *Mathews v. Eldridge* test to determine what process is due to noncitizens challenging detention. *See* 424 U.S. 319 (1976). The *Mathews* factors assess: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the

function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Id.* at 335.

44. The first *Mathews* factor weighs heavily in Valentina’s favor. Valentina has a strong liberty interest in light of her prior release as an unaccompanied child. Because she was previously released from custody as an unaccompanied child and not even subject to government monitoring, Valentina possessed a weighty interest in her continued liberty.

45. The second *Mathews* factor also weighs in Valentina’s favor. Valentina was previously released from detention after being found that she is neither a danger nor a flight risk, and her re-detention—without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond—make the risk of erroneous deprivation of liberty not just high, but certain. Her detention is the direct result of insufficient safeguards and lack of procedure. Under these circumstances, the risk of erroneous deprivation of her liberty is high and the second factor weighs heavily in Valentina’s favor.

46. The third factor favors Valentina, as well. Valentina’s erroneous detention imposes high fiscal and administrative burdens on Respondents. And unlawful detention and violation of noncitizens’ constitutional rights disserve the public interest.

47. Respondents violated procedural due process by re-detaining Valentina without adequate procedural protections before or after deprivation of her liberty. Therefore, this Court should order Valentina’s release without any restraints on her liberty and prohibit any re-detention absent pre-deprivation process.

SECOND CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution Substantive Due Process

48. Valentina repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

49. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). And “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

50. Because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

51. Immigration detention is civil detention and must “bear a reasonable relation to the purpose for which the individual was committed” so that it remains “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v. Martin*, 467 U.S. 253, 264-69 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).

52. Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk pending removal and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690-91.

53. To satisfy substantive due process under the Fifth Amendment, a noncitizen's detention must be tied to flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690.

54. Neither purpose is served by Valentina's detention. Respondents have not made any claim that Valentina presents a flight risk or a danger to the community, nor could they. When Valentina was previously released from ORR custody in 2024, the government came to precisely the opposite conclusion.

55. Since then, Valentina's ties to this country have only grown stronger. She has not only built her entire life here, but she has a safe and meaningful future for her and her child. *See Osorio*, 893 F. 3d at 173-75. And she remains without any criminal record.

56. Because the government is not detaining Valentina to serve legitimate interests in protecting against danger or flight risk, her detention violates substantive due process under the Fifth Amendment, and this Court should order her immediate release.

THIRD CLAIM

Violation of the Immigration and Nationality Act and Procedural Due Process

57. Valentina repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

58. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings. First, 8 U.S.C. § 1226 "authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Individuals detained under Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention under Section 1226(c). *See* 8 U.S.C. § 1226(c).

59. Second, the INA provides for brief mandatory detention of noncitizens with final orders of removal. *See* 8 U.S.C. § 1231.

60. Third, the INA also provides for mandatory detention of two groups of noncitizens encountered “at the Nation’s borders and ports of entry.” *Jennings*, 583 U.S. at 288. The first group consists, generally, of those who are subject to expedited removal for being apprehended upon arrival near the border or for being unable to show that they have been physically present in the United States for more than two years until a determination has been made as to whether they have a credible fear of persecution. 8 U.S.C. § 1225(b)(1). Notably, unaccompanied children are not subject to expedited removal. 8 U.S.C. § 1232(a)(5).

61. The second group subject to mandatory detention consists of anyone alleged to be an “applicant for admission” who is “seeking admission” and whom an “examining immigration officer determines . . . is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A).

62. Respondents claim that Valentina is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A). But this statute does not apply to Valentina, who was previously released from custody as an unaccompanied child, and has resided in this country for years.

63. An individual who entered the United States as an unaccompanied child years ago and was released from government custody to a guardian years ago cannot not later be detained under § 1225(b)(2)(A). An unaccompanied child’s initial detention is governed by the TVPRA, which requires unaccompanied children—even those who turn 18 and age out of ORR custody—to be placed in the “least restrictive setting available.” 8 U.S.C. § 1232(c)(2)(B); *Id.* § 1232(c)(2)(A). The TVPRA strongly favors release of unaccompanied to a “sponsor” who

already lives in the United States, so long as these and other criteria are satisfied. *Id.*; *see also* 6 U.S.C. § 279(b)(2)(A); 45 C.F.R. § 410.1201.

64. This is entirely inconsistent with mandatory detention under 8 U.S.C. § 1225(b)(2)(A). So is the fact of a released unaccompanied child spending years building a life in the United States before being re-detained in the interior. *See, e.g., Portillo Martinez v. Hyde*, No. 25-cv-11909, 2025 WL 3152847 at *8 (D. Mass. Nov. 12, 2025); *Maldonado*, 2025 WL 2374411 at *12.

65. Second, and more broadly, courts across the United States have overwhelmingly concluded that noncitizens like Valentina who entered the United States without inspection and are detained by ICE for removal proceedings while they are residing in the United States are detained under 8 U.S.C. § 1226, not § 1225(b)(2)(A)—and thus entitled to a bond hearing. *See, e.g., Barco Mercado v. Francis*, No. 25-cv-6582 (LAK), 2025 WL 3295903, at *13–14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 finding to the contrary).

66. Accordingly, Valentina’s current detention under 8 U.S.C. § 1225(b)(2)(A)—without access to a bond hearing as required by § 1226(a)—violates both the INA and Valentina’s procedural due process rights. As this renders her detention unlawful from its inception, she/he should be released. *See, e.g., Cardin Alvarez v. Rivas*, No. 25-cv-02943, 2025 WL 2898389, *22 (D. Ariz. Oct. 7, 2025), report and recommendation adopted in part, rejected in part on other grounds sub nom.; *Alvarez v. Rivas*, 2025 WL 2899092 (D. Ariz. Oct. 10, 2025) (“The appropriate relief for an immigration detainee held in violation of their right to due process is their immediate release from custody, and to be provided with relief returning them to status quo ante, i.e., the last uncontested status which preceded the pending controversy.”); *Quintero Campos v. Deleon*, No.

25-cv-10099, 2025 WL 3514120, at *2 (S.D.N.Y. Dec. 8, 2025) (collecting cases ordering immediate release); *Maldonado*, 2025 WL 2374411 at *12.

FOURTH CLAIM

**Violation of the Fourth Amendment to the U.S. Constitution,
8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(d)
Unlawful Arrest**

67. Valentina repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

68. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. Amend. IV. Immigration arrests and detentions are seizures within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the person).

69. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). “Probable cause requires a ‘substantial probability; based on facts related to the individual.’” *Ramirez Ovando v. Noem*, No. 25-cv-03183, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking). That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See Gerstein*, 420 U.S. at 125. It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

70. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws *and* that the person “is likely to escape before a warrant can be obtained,” *i.e.*, is a flight risk. *Id.*; *see also Ramirez Ovando*, 2025 WL 3293467, at *2. Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

71. Valentina’s warrantless detention occurred without probable cause that she was a flight risk. “Courts have ... made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties.” *Escobar Molina v. U.S. Dep’t of Homeland Sec.*, No. 25-cv-3417, 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of her seizure, Valentina (a) was living at a stable home address, of which the government was fully aware, and (b) had been in the United States for two years and built strong ties to his community. Moreover, Valentina fully complied with the ICE officers and in no way tried to disobey or flee. Therefore, no officer could have probable cause that she was likely to escape before a warrant could be obtained.

72. Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Valentina. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. She received no such judicial determination, yet her detention has continued well beyond 48 hours, rendering it presumptively unconstitutional.

73. Regulations also provide that noncitizens arrested without a warrant must receive a custody determination within 48 hours of the arrest, unless there is “an emergency or other

extraordinary circumstance” that requires “an additional reasonable period of time” to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether “release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Valentina has received no such custody determination.

74. Valentina’s re-detention after a prior release, without any new showing of probable cause, was also unconstitutional. When the government releases a person from detention, the purpose of their detention has been accomplished. *See Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) (“It is axiomatic that seizures have purposes. When those purposes are spent, further seizure is unreasonable.”). As a result, any probable cause justifying the prior arrest, if any, is extinguished.

75. Thus, under the Fourth Amendment, the government cannot re-arrest someone without changed circumstances that amount to new probable cause. *See Carlson v. Landon*, 342 U.S. 524, 546-47 (1952) (holding that re-arrest for immigration detention required a new warrant after previous release from immigration detention on bail).

76. Respondents’ warrantless re-arrest of Valentina without changed circumstances, and their refusal to provide a prompt (or any) probable cause determination, violated the Fourth Amendment, the INA, and implementing regulations. Thus, this Court should order her release.

PRAYER FOR RELIEF

WHEREFORE, Valentina respectfully requests that this Court:

- a. Declare that Valentina’s arrest and detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the INA and implementing regulations;

- b. Issue a Writ of Habeas Corpus ordering Respondents to immediately (1) return Valentina to Minnesota, (2) return to Valentina all belongings and papers that were in her possession at the time of her detention, and (3) release Valentina from custody without restraints on her liberty beyond those that existed prior to her unlawful re-detention;
- c. Order that Respondents cannot re-detain Valentina without notice and a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;
- d. Order that Valentina's February 6, 2026, immigration court hearing before Immigration Judge Samuel Williams be enjoined until such time as Valentina may consult with her counsel;
- e. Award Petitioner her attorneys' fees in conjunction with her habeas proceedings; and
- f. Grant such further relief as this Court deems just and proper.

DATED: February 4, 2026

Respectfully submitted,

/s/ Christopher A. Dodd

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

I am submitting this verification on behalf of Valentina because her current detention makes her unable to submit one on her own behalf. I have discussed with Valentina the events described in this Petition. On information and belief, 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.

DATE February 4, 2026

/s/ Brian D. Clark

Brian D. Clark (*pro hac vice forthcoming*)

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