UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Lorena Beatriz Hernandez Quinonez,

Petitioner,

v.

Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security;

Todd M. Lyons, in his official capacity as Acting Director of Immigration and Customs Enforcement;

Garret Ripa, in his official capacity as Miami Field Office Director, Immigration and Customs Enforcement's Enforcement and Removal Operations;

Mitchell Diaz, in his official capacity as Assistant Field Office Director, Broward Transitional Center;

Cynthia Swain, in her official capacity as Warden of Broward Transitional Center.

Respondents.

Case No: _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, AND VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Lorena Beatriz Hernandez Quinonez (A# [redacted] ("Petitioner"), is a native and citizen of Guatemala who entered the United States in October of 2014 and has lived here continuously since that time.
2. Upon arrival to the United States, the Department of Homeland Security ("DHS") identified Petitioner as an Unaccompanied Child ("UC") from Guatemala, as defined in the Homeland Security Act of 2002 ("HSA") and the Trafficking Victims Protection

Reauthorization Act of 2008 ("TVPRA"). See 6 U.S.C. § 279(g)(2)); 8 U.S.C. § 1232(g)).

3. Pursuant to the HSA and TVPRA, the DHS transferred custody of Petitioner to the Department of Health and Human Services ("HHS"), Office of Refugee Resettlement ("ORR"), to whom Congress has authorized custody determinations over UCs. See 6 U.S.C. §§ 279(b)(1), (1)(C); 8 U.S.C. § 1232(b)(3).
4. After considering the "[g]eneral principles that apply to the care and placement of" Petitioner, which includes whether she was a danger to the community or a flight risk, the ORR released her to the care of a sponsor. See 8 U.S.C. § 1232(c)(2)(a); 45 CFR § 410.1003(f).
5. There has been no change in Petitioner's circumstances, such as accruing a criminal history in the United States, that disturbs the ORR's determination.
6. The Department of Homeland Security ("DHS") placed Petitioner in removal proceedings before the Miami Immigration Court on January 20, 2015.
7. On February 4, 2016, Petitioner filed a Form I-589 Application for Asylum, Withholding of Removal, and protection under the Convention Against Torture ("Asylum Application") with USCIS as an Unaccompanied Minor.
8. USCIS denied the Petitioner's Asylum Application on February 8, 2017 and referred the matter to the Immigration Court.
9. Following an individual merits hearing held on June 28, 2019 at the Executive Office of Immigration Review's Miami Immigration Court, Petitioner's asylum application was denied, and a final order of removal was entered against her on August 5, 2019.

10. Petitioner later filed a Form I-918 Petition for U Nonimmigrant Status with USCIS on January 18, 2022, based on a sexual assault that occurred when she was a child of only thirteen (13) years of age. On December 21, 2023, USCIS issued a Bona Fide Determination ("BFD") grant, confirming that Petitioner's U-visa petition is prima facie approvable. The U-Visa Petition remains pending before USCIS.
11. On November 17, 2025, Petitioner was taken into ICE custody while attending her Order of Supervision (OSUP) check-in at ICE-ERO Miramar. She remains detained at the Broward Transitional Center ("BTC").
12. On November 17, 2025, an administrative request for a six-month Stay of Removal was filed with the Miramar ICE Field Office. The request was denied by ICE on December 8, 2025.
13. Petitioner does not have any criminal history, has a valid Employment Authorization Document and has always complied with reporting and check-in requirements imposed on her by DHS.
14. On December 5, 2025, the Petitioner filed a Motion to Reopen and a Motion to Stay Removal. On December 8, 2025, Immigration Judge Madeline Garcia of the Miami Immigration Court granted Petitioner's Motion to Reopen- and issued an Emergency Stay of Removal. The stay halted enforcement of the prior removal order and rendered that order non-operative pending further proceedings.
15. On December 15, 2025, Petitioner submitted a release request to ICE which was denied on December 19, 2025.
16. Petitioner filed a Motion for Custody Redetermination on January 5, 2026, pursuant to 8 U.S.C. § 1226(a), and a hearing was held on January 15, 2026. The Immigration

Judge denied Petitioner's request or custody redetermination and ordered that Petitioner be held without bond.

17. In denying bond, the Immigration Judge held that the court lacked jurisdiction, relying on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which treats all individuals who entered without admission or parole as being subject to mandatory detention under 8 U.S.C. § 1225(b)(2). The Court found that although Petitioner entered the United States as a UC at the age of eleven (11), upon reopening of Petitioner's proceedings as an adult, Respondent "reverted" to applicant-for-admission, subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

18. This petition for a writ of habeas corpus challenges the legal basis for Respondents continuing to hold Petitioner without affording her an individualized custody determination on the theory that she is subject to mandatory detention under 8 U.S.C. § 1225(b).

19. That theory is incorrect. Petitioner is in removal proceedings, and as a noncitizen already in the country, her custody is governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and bond eligibility. Treating her as mandatorily detained under § 1225 conflicts with the statutory text, structure, and long-standing practice.

20. On December 18, 2025, however, the Central District of California issued Final Judgment in *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), finding *Yajure Hurtado* is no longer controlling and the legal conclusion underlying the decision is no longer tenable; holding that individuals like Petitioner are detained under 8 U.S.C. § 1226(a) and are therefore eligible for bond.

Yet the Immigration Judge in Petitioner's case refused to provide Petitioner any bond hearing.

21. In addition to the binding federal court judgment confirming that individuals in Petitioner's posture are detained under 8 U.S.C § 1226(a), DHS's own custody documentation independently establishes the Immigration Court's bond jurisdiction in this case. Upon taking Petitioner into custody, DHS issued a Warrant for Arrest of Alien (Form I-200) and a Notice of Custody Determination (Form I-286), both of which expressly reflect detention authority under 8 U.S.C §1226(a), not 8 U.S.C §1225(b).

22. DHS may not designate 8 U.S.C §1226 as the statutory basis for arrest and custody while simultaneously asserting mandatory detention under 8 U.S.C §1225(b) to defeat Immigration Judge bond jurisdiction.

23. Petitioner cannot currently be removed due to her pending U-Visa application with a bona fide determination granted. U-Visa adjudications take many years to complete due to statutory caps and a significant USCIS backlog of up to ten (10) years. As a result, Petitioner cannot currently be removed and faces prolonged civil detention for a period measured in years, without access to an individualized custody determination.

24. This petition seeks habeas relief holding that Petitioner's detention is governed by § 1226(a), not § 1225(b), and ordering her release or, at minimum, granting Petitioner an individualized bond hearing.

JURISDICTION AND VENUE

25. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 *et seq.* (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §§ 1331 (federal question) and

1346(a)(2) (original jurisdiction over United States as defendant); and 28 U.S.C. § 2201-02 (declaratory relief).

26. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. §2241 because Petitioner is detained at BTC in Pompano Beach, Florida under the jurisdiction of the ICE Miami Field Office.

PARTIES

27. Petitioner, Lorena Beatriz Hernandez Quinonez, is a native and citizen of Guatemala who entered the United States in October of 2014 and has a pending U-Visa Application pending before USCIS. She is currently detained in ICE custody at the BTC in Pompano Beach, Florida.

28. Respondent, Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security, is the official responsible for overseeing BTC, the facility where Petitioner is currently detained. This Respondent is a legal custodian of Petitioner and is sued in his or her official capacity.

29. Respondent, Todd M. Lyons, in his official capacity as Acting Director of Immigration and Customs Enforcement, is the official responsible for overseeing BTC, the facility where Petitioner is currently detained. This Respondent is a legal custodian of Petitioner and is sued in his or her official capacity.

30. Respondent, Garret Ripa, in his official capacity as Miami Field Office Director, Immigration and Customs Enforcement's Enforcement and Removal Operations, is the official responsible for overseeing BTC, the facility where Petitioner is currently detained. This Respondent is a legal custodian of Petitioner and is sued in his or her official capacity.

31. Respondent, Mitchell Diaz, in his official capacity as Assistant Field Office Director, Broward Transitional Center, is the official responsible for overseeing BTC, the facility where Petitioner is currently detained. This Respondent is a legal custodian of Petitioner and is sued in his or her official capacity.

32. Respondent, Cynthia Swain, in her Official capacity as Warden of Broward Transitional Center is the official responsible for overseeing BTC, the facility where Petitioner is currently detained. This Respondent is a legal custodian of Petitioner and is sued in his or her official capacity.

LEGAL FRAMEWORK FOR IMMIGRATION DETENTION

33. Civil immigration detention is presumptively unconstitutional absent its authorization by a special justification enacted pursuant to an Act of Congress. *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1210 (11th Cir. 2016) ("Under the Due Process Clause, civil detention is permissible only when there is a 'special justification' that 'outweighs the individual's constitutionally protected interest in avoiding physical restraint.' ") (citation omitted), *vacated on mootness grounds*, 890 F.3d 952 (2018). 102.

34. The Immigration and Nationality Act ("INA") contains two principal detention statutes for noncitizens before a final order of removal: 8 U.S.C. §§ 1225 and 1226.

35. The detention provisions at 8 U.S.C. § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.

36. 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals

detained under the authority of § 1226(a) are entitled to a bond hearing at the outset of their detention. S*ee* 8 C.F.R. §§ 1003.19(a), 1236.1(d).

37. By contrast, 8 U.S.C. § 1225 provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

38. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as noncitizens who entered without inspection) will be eligible for bond and bond redetermination . . . The effect of this change is that inadmissible [noncitizens], except for arriving [noncitizens], have available to them bond redetermination hearings before an immigration judge, while arriving [noncitizens] do not. This procedure maintains the *status quo* . . .").

39. Thus, in the decades that followed, most people who entered without inspection, unless they were subject to some other detention authority, received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also*

H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

40. Respondents' policy turned this well-established understanding on its head and violates the statutory scheme.

41. Indeed, this legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings was previously rejected by a District Court in the Western District of Washington, finding that such individuals are entitled to bond redetermination hearings before immigration judges, and rejecting the application of § 1225(b)(2) to such cases. *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850, at *12 (W.D. Wash. Apr. 24, 2025).

42. Despite this finding from a federal court, on July 8, 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.

43. On September 5, 2025, the BIA issued an opinion adopting this approach to the detention statutes, *see Matter of Yajure Hurtado*, 29 I. & N. Dec. at 220 (BIA 2025), further entrenching the government's interpretation of the governing detention statutes. Because this decision is precedential, it is binding on immigration judges, absent contrary instructions from a federal court exercising habeas jurisdiction.

44. On January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance directing all Immigration Judges to continue following *Matter of Yajure Hurtado* as binding precedent, notwithstanding *Maldonado Bautista*. The guidance explains that *Maldonado Bautista* is not a nationwide injunction and does not vacate,

stay, or enjoin *Yajure Hurtado*, and further clarifies that a declaratory judgment is not binding and lacks authority to compel agency action. Accordingly, Immigration Judges are instructed to decline bond jurisdiction in cases governed by *Yajure Hurtado*, leaving detainees without access to an individualized custody determination in immigration court.

45. This interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

46. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

47. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 (a) therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

48. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).

49. The government's interpretation subjects all inadmissible noncitizens to 8 U.S.C. § 1225 and its mandatory detention provisions. But such a reading renders superfluous significant portions of 8 U.S.C. § 1226(c) that reference inadmissible noncitizens,

including 8 U.S.C. § 1226(c)(1)(E) that Congress enacted in 2025 by passing the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

50. The new subsection makes a noncitizen subject to mandatory detention if the noncitizen (i) is inadmissible under 8 U.S.C. §§ 1182(a)(6)(A), (6)(C), or (7) (the "inadmissibility criterion"); and (ii) is charged with, arrested for, convicted of, or admits to committing certain crimes (the "criminal conduct criterion"). 8 U.S.C. § 1226(c)(1)(E) (emphasis added). By using the conjunction "and," the provision mandates detention only where the inadmissibility criterion and the criminal conduct criterion are both satisfied.

51. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

REQUIREMENTS OF 28 U S.C. § 2243

52. 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 order to show cause 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.* (emphasis added).

53. 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).

54. There is no statutory requirement of administrative exhaustion before a habeas action is brought before a federal court. See 8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) ("Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.").

55. As explained in detail in this Petition, once Petitioner's Motion to rescind her prior order of removal and reopen her removal proceedings was granted on December 8, 2025, Petitioner filed a Motion to conduct a bond hearing as required by 8 U.S.C. § 1226. The IJ followed EOIR's directive to ignore prior federal orders and uphold *Matter of Yajure Hurtado*.

56. Chief Immigration Judge Teresa L. Riley issued nationwide guidance on January 13, 2026 instructing all immigration judges that, "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." The guidance further stated that a declaratory judgment is not binding and lacks authority to compel agency action. Immigration judges are instructed to follow the BIA's decision in *Matter of Yajure Hurtado* as binding precedent.

57. Given BIA's prior ruling in *Matter of Yajure Hurtado*, and the newly issued instruction that *Yajure Hurtado* remains binding precedent, it is clear that any appeal would be futile and require Petitioner to continue to remain in prolonged detention while awaiting the adjudication of her U-Visa application. Her next master calendar hearing before the Miami Immigration Court is set for January 11, 2029.

58. This Court has previously agreed that because a, —"bond appeal to the BIA is nearly a foregone conclusion under [Yajure Hurtado], any prudential exhaustion requirements

are excused for futility." Alvarez v. Morris, No. 25-24806-CV, 2025 U.S. Dist. LEXIS 271658, at *5 (S.D. Fla. Oct. 27, 2025) Citing the following cases, Puga v. Assistant Field Off. Dir., Krome North Serv. Processing Ctr., 25-cv-24535, 2025 U.S. Dist. LEXIS 203222, 2025 WL 2938369, at *2 (S.D. Fla. Oct. 15, 2025); see also Jefry Josue Del Cid Del Cid and Marlon Letona Marroquin Marroquin v. Pamela Bondi, 2025 U.S. Dist. LEXIS 209136, 2025 WL 2985150, at *13 (W.D. Pa. Oct. 23, 2025); Guerrero Orellana v. Moniz, 2025 U.S. Dist. LEXIS 196282, 2025 WL 2809996, at *4 n.2 (D. Mass. Oct. 3, 2025); Inlago Tocagon v. Moniz, 2025 U.S. Dist. LEXIS 191829, 2025 WL 2778023, at *2 (D. Mass. Sep. 29, 2025); Roman v. Noem, No. 25-cv-01684, 2025 U.S. Dist. LEXIS 186389, 2025 WL 2710211, at *5 (D. Nev. Sep. 23, 2025); Vazquez v. Feeley, No. 25-cv-01542, 2025 U.S. Dist. LEXIS 182412, 2025 WL 2676082, at *9-10 (D. Nev. Sep. 17, 2025).

59. Petitioner has exhausted all available remedies and remains in detention in violation of statutes and her right to Due Process.

FACTUAL ALLEGATIONS AND RELEVANT BACKGROUND

60. Petitioner is a native and citizen of Guatemala who entered the United States for the first and only time in October of 2014 and has resided in the United States continuously since that date.

61. When DHS inspected Petitioner at the border, it correctly identified her as UC, as defined in the Homeland Security Act of 2002 ("HSA") and the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). See 6 U.S.C. § 279(g)(2)); 8 U.S.C. § 1232(g).

62. Pursuant to the HSA and TVPRA, DHS transferred custody of Petitioner to the Department of Health and Human Services ("HHS"), Office of Refugee Resettlement ("ORR"), to whom Congress has authorized custody determinations over UCs. See 6 U.S.C. §§ 279(b)(1), (1)(C); 8 U.S.C. § 1232(b)(3).

63. On November 13, 2014, after considering the "[g]eneral principles that apply to the care and placement of" Petitioner, which includes whether she was a danger to the community or a flight risk, the ORR released her to the care of her sponsor, pursuant to section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. See 8 U.S.C. § 1232(c)(2)(a); 45 C.F.R. § 410.1003(f).

64. There has been no change in Petitioner's circumstances, such as accruing any criminal history in the United States, that would disturb the ORR's determination.

65. The Department of Homeland Security ("DHS") placed Petitioner in removal proceedings before the Miami Immigration Court on January 20, 2015.

66. On February 4, 2016, Petitioner filed a Form I-589 Application for Asylum, Withholding of Removal, and protection under the Convention Against Torture ("Asylum Application") with USCIS as an Unaccompanied Minor.

67. USCIS denied the Petitioner's Asylum Application and referred the matter to the Immigration Court.

68. Following an individual hearing held on June 28, 2019 at The Executive Office of Immigration Review's Miami Immigration Court, Petitioner's asylum application was denied, and a final order of removal was entered against her on August 5, 2019.

69. Petitioner later filed a Form I-918 Petition for U Nonimmigrant Status with USCIS on January 18, 2022, based on [redacted] On December 21, 2023, USCIS issued a Bona Fide Determination ("BFD") grant, confirming that Petitioner's U-visa petition is prima facie approvable. The U-Visa Petition remains pending before USCIS.

70. On November 17, 2025, Petitioner was taken into ICE custody while attending her Order of Supervision (OSUP) check-in at ICE-ERO Miramar. She remains detained at the Broward Transitional Center ("BTC").

71. On November 17, 2025, an administrative request for a six-month Stay of Removal was filed with the Miramar ICE Field Office. The request was denied by ICE on December 8, 2025.

72. Petitioner does not have any criminal history, has a valid Employment Authorization Document and has always complied with reporting and check-in requirements imposed on her by DHS.

73. On December 5, 2025, the Petitioner filed a Motion to Reopen and a Motion to Stay Removal. On December 8, 2025, Immigration Judge Madeline Garcia of the Miami Immigration Court granted Petitioner's Motion to Reopen, - and issued an Emergency Stay of Removal. The stay halted enforcement of the prior removal order and rendered that order non-operative pending further proceedings.

74. On December 15, 2025 Petitioner submitted a release request to ICE which was denied on December 19, 2025.

75. Petitioner filed a Motion for Custody Redetermination on January 5, 2026, pursuant to 8 U.S.C. § 1226(a), and a hearing was held on January 15, 2026. The Immigration

Judge denied Petitioner's request or custody redetermination and ordered that Petitioner be held without bond.

76. In denying bond, the Immigration Judge held that the court lacked jurisdiction, relying on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which treats all individuals who entered without admission or parole as being subject to mandatory detention under 8 U.S.C. § 1225(b)(2). The Court found that although Petitioner entered the United States as a UC at the age of eleven (11), upon reopening of Petitioner's proceedings as an adult, Respondent "reverted" to applicant-for-admission, subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

77. Petitioner cannot currently be removed due to her pending U-Visa application with a bona fide determination granted. U visa adjudications take many years to complete due to statutory caps and a significant USCIS backlog of up to ten (10) years. As a result, Petitioner cannot currently be removed and faces prolonged civil detention for a period measured in years, without access to an individualized custody determination.

78. This petition for a writ of habeas corpus challenges the legal basis for Respondents continuing to hold Petitioner without affording her an individualized custody redetermination hearing on the theory that she is subject to mandatory detention under 8 U.S.C. § 1225(b).

79. That theory is incorrect. As a noncitizen already in the country, her custody is governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and bond eligibility. Treating her as mandatorily detained under § 1225 conflicts with statutory text, structure, and long-standing practice and DHS's own custody documentation in Petitioner's case.

80. Upon taking Petitioner into custody at the time she entered the United States in October of 2014, DHS issued a Warrant for Arrest of Alien (Form I-200) and a Notice of Custody Determination (Form I-286), both of which expressly reflect DHS's detention authority over Petitioner under 8 U.S.C §1226(a), not 8 U.S.C §1225(b).

81. The government's recent policy shift—culminating in agency guidance and the BIA's decision in *Yajure Hurtado*, 29 I. & N. Dec. 216—categorically denies bond eligibility to individuals like Petitioner based solely on manner of entry. Applied here, that approach forecloses a neutral, individualized assessment despite Petitioner's ability to show that she continues to pose no danger to the community and no flight risk.

82. This Court has rejected the BIA's reasoning in *Matter of Yajure Hurtado* and declined to follow it in granting habeas relief to petitioners in the Southern District of Florida. *See, e.g., Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 LX 451385, at *14 (S.D. Fla. Oct. 15, 2025) ("This Court likewise declines to follow *Matter of Yajure Hurtado*, whose interpretation of § 1225 is at odds with the text of § 1225 and § 1226, is inconsistent with earlier BIA decisions, and renders superfluous the recent Laken Riley Act amendments to § 1226(c)."); *see also Puga v. Ass't Field Office Dir.*, No. 25-24535-CIV, 2025 LX 462379, at *13-14 (S.D. Fla. Oct. 15, 2025) ("[T]he Court finds that section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a).")

83. Further, the Central District of California has expressly held that the underlying legal principle espoused in *Matter of Yajure Hurtado* is no longer tenable. *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al* DE 92 Case 5:25-cv-01873-

SSS-BFM at 6. That Court has certified a class directing immigration courts to hold substantive bond hearings for class members under § 1226.

84. Petitioner therefore seeks habeas relief to hold that § 1226(a) governs her custody and to order Respondents to release Petitioner or at least provide her the individualized custody redetermination hearing before an immigration judge to which she is statutorily and constitutionally entitled.

CAUSES OF ACTION
COUNT ONE
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Bond Hearing

85. Petitioner re-alleges paragraphs 1 to 84 as if fully stated herein.

86. Petitioner's continued detention of Petitioner without the opportunity for her to obtain a bond hearing on the theory that she is subject to mandatory detention under 8 U.S.C. § 1225 contravenes the INA and Due Process.

87. 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 inadmissibility because they previously entered the country without being admitted or paroled.

88. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231. The application of § 1225(b)(2) to bar Petitioner from receiving a custody redetermination hearing before an immigration judge violates the INA.

89. Rather, § 1225 applies to noncitizens actively "seeking admission" at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention

of those "already in the country" pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. *See Jennings v. Rodriguez*, 583 U.S. 281, 288-89 (2018).

90. As Petitioner entered as a minor and was appropriately designated a UC, she was processed under the TVPRA and released by ORR, making mandatory detention under § 1225 inapplicable.

91. Even if Petitioner appeals the immigration judge's denial of her bond motion, the DHS will continue to detain Petitioner pending the appeal. Considering the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 220, the DHS is virtually guaranteed to win the appeal.

92. Based on DHS, the BIA, and IJs prior rulings, it is virtually certain that Petitioner will continue to be detained until her next master calendar hearing on January 11, 2029 without substantive a hearing as required under § 1226 without the intervention of this Court.

93. In *Matter of Yajure Hurtado*, the BIA held that all noncitizens who entered the United States without admission or parole, like Petitioner, are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and are ineligible for bond hearings. It constitutes the BIA's affirmation of Respondents' faulty reimagining of the governing detention statutes.

94. This Court has rejected the BIA's reasoning in *Matter of Yajure Hurtado* and declined to follow it in granting habeas relief to petitioners in the Southern District of Florida. *See, e.g.*, *Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 LX 451385, at *14 (S.D. Fla. Oct. 15, 2025); *Puga v. Ass't Field Office Dir.*, No. 25-24535-CIV, 2025 LX 462379, at *13-14 (S.D. Fla. Oct. 15, 2025); *see also Alvarez v. Morris*, No. 25-

24806-CV, 2025 U.S. Dist. LEXIS 271658, at *6 (S.D. Fla. Oct. 27, 2025) ("Countless federal courts nationwide, including this one, have addressed this issue. As far as the Court is aware, every court has arrived at the same answer: Petitioner is correct. The IJ and Respondents' interpretation of the INA "directly contravenes the statute, disregards decades of settled precedent," and is erroneous.")

95. Numerous other federal courts have ruled that the BIA's decision is not entitled to any deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), and have overwhelmingly rejected the BIA's decision in *Yajure Hurtado*, concluding it is contrary to law. *See, e.g.*, *Antonio Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 LX 442534, at *35-36 (S.D. Ga. Nov. 4, 2025) ("I conclude Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2) . . . Thus, Petitioner's detention based on 8 U.S.C. § 1225(b)(2) is unlawful. Any immigration court order which has relied on this misinterpretation to continue to detain Petitioner is contrary to the INA, and therefore, § 2241 relief is proper."); *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115, at *14-16 (M.D. Ga. Nov. 1, 2025) (rejecting the government's arguments, which largely parrot the rationale in *Yajure Hurtado* . . . [to] conclude[] that § 1226(a), not § 1225(b)(2), applies" to immigrants like Petitioner, and ordering the immigration court to grant a bond hearing); *Garcia v. Noem*, No. 2:25-cv-00879-SPC-NPM, 2025 LX 400655, at *11 (M.D. Fla. Oct. 31, 2025) ("Since DHS's change in policy, courts in this District and around the country have rejected its new interpretation of the INA. This Court agrees with the growing consensus.").[1]

[1] The overwhelming majority of United States Federal District Courts outside of the Eleventh Circuit have drawn the same conclusion. *See, e.g., Hernandez Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM, 2025 U.S. Dist. LEXIS 212865, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *Aguilar Guerra v. Joyce*, 2:25-cv-534-SDN, 2025 U.S. Dist. LEXIS 208608, 2025 WL 2986316 (D. Maine Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25-cv-13004, 2025 U.S.

96. Despite the *Maldonado Bautista* Court holding that, "*Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable", Petitioner was denied a custody redetermination hearing by the immigration judge at BTC, to which she is entitled as an individual subject to detention under 8 U.S.C. § 1226(a).

97. Petitioner was not "seeking admission" within the meaning of § 1225(b) but was "already in the country" within the meaning of *Jennings*, 583 U.S. at 288–89. Her custody is governed by § 1226(a), under which detention is discretionary and subject to individualized bond hearings.

98. The Court should, at a minimum, order Respondents to grant an individualized bond hearing consistent with long-standing practice.

COUNT TWO

Dist. LEXIS 208752, 2025 WL 2985256 (D. N.J. Oct. 23, 2025); *Gomez Garcia v. Noem*, No. 5:25-cv-02771-ODW (PDx), 2025 U.S. Dist. LEXIS 209286, 2025 WL 2986672 (C.D. Cal. Oct. 22, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 U.S. Dist. LEXIS 208290, 2025 WL 2977650 (D.Colo. Oct. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 U.S. Dist. LEXIS 204142, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *N.A. v. Larose*, No. 25-cv-2384-RSH-BLM, 2025 U.S. Dist. LEXIS 198688, 2025 WL 2841989 (S.D. Cal. Oct. 7, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 U.S. Dist. LEXIS 175513, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 U.S. Dist. LEXIS 175767, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 U.S. Dist. LEXIS 174828, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 U.S. Dist. LEXIS 171714, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 U.S. Dist. LEXIS 167280, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 U.S. Dist. LEXIS 165015, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 U.S. Dist. LEXIS 163056, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 U.S. Dist. LEXIS 161109, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 U.S. Dist. LEXIS 160622, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 U.S. Dist. LEXIS 158808, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Maldonado v. Olson*, No. 25-cv-03142-SRN-SGE, 2025 U.S. Dist. LEXIS 158321, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 25-CV-02157-PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156344, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. 25-CV-02157-PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156336, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Diaz Martinez v. Hyde*, No. 25-CV-11613-BEM, 2025 U.S. Dist. LEXIS 141724, 2025 WL 2084238 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299 (D. Mass. July 7, 2025).

Violations of the Due Process Clause of the Fifth Amendment of the U.S. Constitution, U.S. Const. amend. V, cl. 4

99. Petitioner re-alleges paragraphs 1 to 84 as if fully stated herein.

100. Under the Fifth Amendment to the United States Constitution, those threatened with the loss of liberty or property due to the actions of the federal government are entitled to due process of law. The procedural due process guarantee of the Fifth Amendment requires that individuals be provided notice and an opportunity to be heard before being deprived of liberty or property interests. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

101. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

102. To determine whether civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the three-part test articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under that test, courts must weigh (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.

103. Applying the familiar *Mathews* test, Petitioner's liberty interest is paramount, and the risk of erroneous deprivation is extreme considering that Petitioner, who has no criminal history in the United States, and whom the ORR has already determined is not a flight risk or danger to the community, is not subject to mandatory detention under 8

U.S.C. § 1226(c). Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator. *Marcello v. Bonds*, 349 U.S. 302, 305-06 (1955). Finally, the government's interest in keeping Petitioner detained until her next master calendar hearing in January 11, 2029 is minimal. Petitioner should never have been held in detention; she does not, and did not, present any flight risk or danger. She has been a continuous resident in Florida since her arrival, over eleven (11) years ago as a child, and has strong family and community ties to the United States. She has three (3) U.S. Citizen siblings for whom she provided daily care and support for prior to her detention. Her continued detention is not rationally related to any purpose.

104. Given USCIS's extensive and well-documented delays in adjudicating U-Visa applications, and despite the protections afforded to Petitioner by her bona fide determination, Petitioner faces prolonged and potentially years-long detention with no meaningful avenue for release, as ICE has already denied the exercise of discretionary parole in her case.

105. This Honorable Court should grant the Petition for Writ of Habeas Corpus and order Petitioner's release because Respondents have deprived her of due process of law. Absent judicial intervention, Petitioner will remain detained for years to come.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this matter;

(b) Grant the writ of habeas corpus and order that Respondents release Petitioner from immigration detention, or at minimum order a custody redetermination hearing consistent with 8 U.S.C. § 1226(a);

(c) Declare that Petitioner's continued detention without an individualized custody determination violates the Due Process Clause of the Fifth Amendment and exceeds the scope of authority permitted under the Immigration and Nationality Act, 8 U.S.C. § 1226;

(d) Enjoin the Respondents from transferring Petitioner outside the jurisdiction of the U.S. District Court for the Southern District of Florida;

(e) Award petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

(f) Grant any additional relief that this Court deems just and proper.

Dated: February 06, 2026

Respectfully submitted,

By: /s/ Alexandra Manrique

Alexandra Manrique Alfonso, Esq.
Florida Bar No. 109521
Email: amanrique@aijustice.org
Americans for Immigrant Justice
PO Box 520037, Miami, FL 33152
Phone: (305) 573-1106 x. 1102
Attorney for Petitioner

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

I represent Petitioner, Lorena Beatriz Hernandez Quinonez, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated this 6 day of February, 2026

/s/ Alexandra Manrique