

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

Cindy Carolina RIERA-RANGEL

Case No. 3:26-cv-00396

Petitioner,

v.

JOHN DOE, in *his official capacity* as the
Warden of the ERO El Paso Camp East
Montana, Texas;

Mary DE ANDA-YBARRA, in *her official
capacity* as Field Office Director, El Paso Field
Office, U.S. Immigration and Customs
Enforcement;

TODD M. LYONS, in *his official capacity* as
Acting Director, Immigration and Customs
Enforcement;

KRISTI NOEM, in *her official capacity* as
Secretary, U.S. Department of Homeland
Security; and

PAMELA JO BONDI, in *her official capacity*
as Attorney General of the United States

Respondents.

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

INTRODUCTION

1. The Petitioner in this case, Cindy Carolina RIERA-RANGEL, is an unlawfully detained individual who entered the United States on or about November 12, 2023, at or near El Paso, TX. She is a native and citizen of Venezuela [See Exhibit I - Notice To Appear].

Important to note that in the Notice to Appear (“NTA”), the applicant was deemed an “alien present in the United States who has not been admitted or paroled” and not “an arriving alien”. [See *Id.*] The Petitioner, in compliance with applicable law, sought humanitarian protection in the United States by filing an Application for Asylum and for Withholding of Removal (“Form I-589”) with United States Citizenship and Immigration Services (“USCIS”), which remains pending. [See **Exhibit II - EOIR Case Status and I-589 ASC Appointment Notice**]. As Congress intended, the filing and pendency of an asylum application authorizes the Petitioner’s continued physical presence in the United States while her protection claim is adjudicated. The Petitioner has not been ordered removed and was peaceably present in the United States while awaiting adjudication of her asylum application.

2. Nevertheless, in the early morning hours of January 30, 2026, U.S. Immigration and Customs Enforcement (“ICE”) agents arrested Ms. Riera-Rangel while she attended her Intensive Supervision Appearance Program (“ISAP/OSUP”) appointment, an appointment she had consistently and fully complied with. Despite acknowledging that (a) Petitioner is a member of a vulnerable population; (b) Petitioner has a pending Form I-589 before USCIS; and (c) Petitioner is entitled to remain in the United States while that application is pending. Ms. Riera-Rangel has remained continuously in custody since January 30, 2026. The ICE Detainee Locator identifies her detention facility only as “ERO EL PASO CAMP EAST MONTANA”. [See **Exhibit III - Screen Printout of ICE Locator**].

3. This detention is unlawful. The Supreme Court has repeatedly held that executive detention must comport with constitutional and statutory safeguards. Although the government has broad authority to detain noncitizens in connection with removal proceedings, that authority is not unbounded and cannot be exercised in a manner that results in indefinite or prolonged

incarceration untethered from legitimate legal process. In *Jennings v. Rodriguez*, the Supreme Court recognized that the absence of statutory safeguards like periodic bond hearings in the Immigration and Nationality Act (“INA”) does not eliminate judicial review of detention that lacks lawful basis, preserving habeas review of prolonged detention.¹

4. Federal courts within the Fifth Circuit have consistently entertained habeas petitions challenging immigration detention that lacks a valid statutory basis or meaningful individualized review. In the Western District of Texas, habeas jurisdiction extends to cases where detention under 8 U.S.C. § 1226(a) or § 1225(b) is disputed, and due process concerns arise. Significantly, when detention is unlawful, immediate release -not a mere bond hearing- is the constitutionally adequate remedy. In *Avilez Aguinaga v. Warden, Joe Corley Processing Center*, No. 4:26-cv-0137, 2026 WL [SD Tex. Feb. 2, 2026], the Southern District of Texas granted immediate release to a noncitizen detained under § 1225(b), holding that the petitioner’s detention was unlawful, that exhaustion did not bar judicial review, and that habeas relief in the form of release was required to vindicate Fifth Amendment due process rights. The court expressly rejected a bond hearing as sufficient, noting that the essence of habeas relief is to secure release from unlawful custody (*Munaf v. Geren*, 553 U.S. 674, 693 (2008); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)). Similarly, in *Lopez Arevalo v. Ripa* (W.D. Tex.), the court recognized that prolonged detention without a bond hearing implicates due process protections for all persons in the United States, citizens and noncitizens alike. In *Hernandez-Fernandez v.*

¹ See *Jennings v. Rodriguez*, 583 U.S. 513, 526–27 (2018) (rejecting the Ninth Circuit’s statutory reading requiring periodic bond hearings, but expressly declining to decide the constitutional claims and reaffirming that noncitizens may challenge the lawfulness of their detention through habeas corpus); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (holding that civil immigration detention must be limited to a period reasonably necessary to serve its purpose and that indefinite detention raises serious constitutional concerns); *Demore v. Kim*, 538 U.S. 510, 527–28 (2003) (upholding brief mandatory detention only in the context of removal proceedings that were actively being pursued and emphasizing the limited duration of such detention); see also *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (“[A] state of war is not a blank check for the President when it comes to the rights of the Nation’s citizens.”), underscoring that executive detention must remain tethered to lawful process and meaningful judicial review.

Lyons (W.D. Tex.), the court confirmed that constitutional challenges to mandatory detention are properly before the district court and that individualized review is required. Likewise, *Murzabaev v. Lyons* (W.D. Tex.) evaluated the application of § 1225(b) to long-term residents and recognized that automatic detention without meaningful review can violate the Fifth Amendment. Together, these authorities establish that, where detention is unauthorized or unconstitutional, the appropriate and constitutionally required habeas remedy is immediate release, not a deferred bond hearing.²

5. Moreover, federal courts have long recognized that detention unsupported by lawful statutory authority or proper legal process is unlawful. Custody imposed without a valid charging document, custody determination, or other statutorily authorized basis exceeds the limits of executive authority and is subject to judicial review through habeas corpus. Courts have further recognized that detention premised solely on administrative practice, rather than on a statutory mandate or an individualized determination, raises serious constitutional concerns. Courts within the Fifth Circuit have held that immigration detention must be tethered to a specific statutory authorization under the INA and that habeas review is available where the government cannot identify a lawful basis for continued custody. Where detention proceeds without proper process or beyond the scope of the statute invoked, such custody is unauthorized and constitutionally suspect under Fifth Circuit law.

² See *Lopez Arevalo v. Ripa*, recognizing that the district court has habeas jurisdiction to review challenges to immigration detention where the petitioner disputes the statutory basis for custody and raises Fifth Amendment due process claims, including prolonged detention without an individualized custody determination; *Hernandez-Fernandez v. Lyons*, holding that 8 U.S.C. § 1226(e) does not bar habeas review of constitutional or statutory challenges to immigration detention and that claims alleging detention without lawful statutory authorization or meaningful individualized review are properly brought under 28 U.S.C. § 2241; *Murzabaev v. Lyons*, addressing the application of 8 U.S.C. § 1225(b) and concluding that continued detention without a clear statutory basis or individualized assessment raises serious due process concerns, warranting habeas relief in the form of a bond hearing.

6. The government's continued detention of Petitioner is also unlawful because her placement in the ISAP/OSUP was never revoked, terminated, or modified in accordance with governing law. Under ICE's regulatory and policy framework, ISAP/OSUP is a form of conditional release that authorizes community supervision rather than physical detention. See 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(c). Where a noncitizen has been released under conditions and remains in full compliance with those conditions, the government lacks authority to summarily detain her absent a lawful revocation of that release.

7. Petitioner remained continuously enrolled in ISAP/OSUP and fully compliant with all program requirements at the time of her arrest. ICE never issued a notice of revocation, never identified any violation of ISAP/OSUP conditions, and never afforded Petitioner the procedural safeguards required before converting a supervised release into custodial detention. Detaining a noncitizen without revoking the very release conditions under which she remains compliant exceeds the government's statutory authority and violates basic principles of due process.

8. The Supreme Court has repeatedly emphasized that civil immigration detention must be tethered to clear statutory authorization and accompanied by adherence to established legal process. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention that disregards governing release determinations and bypasses required procedures raises serious constitutional concerns. Unlike exceptional contexts such as military detention, see *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), routine civil immigration custody demands strict compliance with statutory and regulatory limits. Because Petitioner's ISAP/OSUP placement was never revoked, the government lacks lawful authority to detain her, and habeas relief is warranted. Continued

detention under these circumstances violates the Due Process Clause of the Fifth Amendment, exceeds statutory authority, and is arbitrary and capricious.

9. Petitioner accordingly seeks a writ of habeas corpus ordering: (a) her immediate release from immigration custody or, at a minimum, a prompt individualized custody hearing before a neutral decisionmaker under 8 U.S.C. § 1226(a), at which Respondents must justify any continued detention by clear and convincing evidence; (b) an order requiring that, upon release, all of Petitioner's personal property be promptly returned to her, that Respondents provide transportation back to the Whipple Building, and that Respondents be immediately enjoined from transferring, removing, or otherwise relocating Petitioner outside the State of Minnesota while this petition is pending; and (c) a declaration that Respondents' continued detention of Petitioner is unlawful, ultra vires, and unconstitutional.

JURISDICTION

10. The Petitioner is in the physical and legal custody of Respondents. She is being processed and detained at the ERO El Paso Camp East Montana, in El Paso, TX. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. See, e.g., *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001);

11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the INA, 8 U.S.C. §§ 1101–1537, regulations implementing the INA, the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706, and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. This Court has additional remedial authority under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Federal Rules of Civil Procedure Rule 65 (injunctive relief), 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

13. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

VENUE

14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Texas, the judicial district in which the Petitioner is currently detained.

15. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and/or agents of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Minnesota.

PARTIES

16. Petitioner Cindy Carolina RIERA-RANGEL is a citizen and national of the State of Venezuela who has a pending Form I-598.

17. Petitioner was later detained on or about January 30, 2026, and diligently sought legal representation and hired the Mai N. Moua Law Office. Despite being aware of the Petitioner's pending asylum application and lack of ISAP/OSUP violations, ICE officers detained her. She is currently being held without bail or bond at the ERO El Paso Camp East Montana, 6920 Digital Road, NA, El Paso, Texas 79936.

18. Respondent John DOE is the Warden of the ERO El Paso Camp East Montana, TX, located in El Paso, Texas, and is responsible for the day-to-day custody and supervision of individuals detained at the facility, including the Petitioner. As the immediate custodian, Respondent John DOE has direct control over the Petitioner's detention, access to release, and physical conditions of confinement. He is sued in his official capacity.

19. Respondent Mary DE ANDA-YBARRA is the Acting Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division, a component of the Department of Homeland Security ("DHS"). As such, she is Petitioner's immediate legal custodian and is responsible for the Petitioner's detention and removal. She is sued in her official capacity.

20. Respondent Todd LYONS is the Acting Director of ICE, the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens, and a component agency of DHS. He is sued in his official capacity.

21. Respondent Kristi NOEM is the Secretary of the DHS. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. NOEM has ultimate custodial authority over the Petitioner. She is sued in her official capacity.

22. Respondent Pamela J. BONDI is the Attorney General of the United States and is sued in her official capacity. She is the head of the United States Department of Justice and has supervisory authority over the Executive Office for Immigration Review and DHS's civil immigration enforcement policies and practices. As Attorney General, Ms. Bondi oversees federal law enforcement policy and participates in the implementation of immigration laws. She has ultimate supervisory authority over the Attorney General's delegates responsible for

immigration adjudications, including removal proceedings and aspects of enforcement relevant to the Petitioner's detention. She is sued in her official capacity.

LEGAL FRAMEWORK

A. The Statutory and Constitutional Framework Governing Asylum Seekers Presumes Lawful Presence and Liberty Pending Adjudication.

23. Congress has long recognized asylum as a humanitarian form of protection designed to allow noncitizens fleeing persecution to remain safely in the United States while their claims are adjudicated. The right to seek asylum is codified at 8 U.S.C. § 1158, which permits “[a]ny alien who is physically present in the United States or who arrives in the United States” to apply for asylum, regardless of manner of entry. By statute, asylum seekers are authorized to remain in the United States for the duration of the adjudication of their applications, subject to the procedural framework Congress established.

24. Where, as here, Petitioner entered the United States without inspection and later filed Form I-589, Congress entrusted the initial adjudication of that claim to USCIS, not the Immigration Court. See 8 C.F.R. §§ 208.2(a), 1208.2(a). During the pendency of an asylum application, the applicant is authorized to remain physically present in the United States for purposes of pursuing the humanitarian protection Congress made available.

25. Importantly, Congress did not condition the right to seek asylum on detention. Nor did it authorize the government to detain asylum seekers absent compliance with the statutory and regulatory limits governing civil immigration custody. The statutory scheme presumes liberty as the default and permits detention only in narrowly circumscribed circumstances and only pursuant to lawful process.

B. Immigration Detention Authority Is Limited Under § 1226(a) and Requires Adherence to Release Determinations.

26. The INA provides two primary detention provisions potentially relevant here: 8 U.S.C. § 1225 and 8 U.S.C. § 1226. Section 1225 governs inspection and detention of applicants for admission at or near the border, while § 1226 governs detention of noncitizens already present in the United States “pending a decision on whether the alien is to be removed.”

27. Although Petitioner entered the United States without inspection, she was encountered in the interior of the country and placed into non-expedited proceedings. Detention authority, therefore, arises, if at all, under § 1226(a), not § 1225. Detention under § 1226(a) is discretionary and expressly contemplates release on bond, parole, or other conditions following an individualized assessment of flight risk or danger. Moreover, the NTA shows her as “an alien present in the United States who has not been admitted or paroled”. [See Exhibit I]

28. ICE’s ISAP/OSUP is one such form of conditional release under § 1226(a). Placement in ISAP/OSUP represents an affirmative custody determination by the government that community-based supervision, rather than physical detention, is sufficient to serve immigration enforcement interests.

29. Once the government releases a noncitizen under § 1226(a) and places her on ISAP/OSUP, it may not re-detain her arbitrarily. Continued detention is lawful only if the government revokes or modifies the prior release determination in accordance with law and procedure, typically based on an alleged violation of release conditions or materially changed circumstances.

C. Detention Without Revocation of ISAP/OSUP Exceeds Statutory Authority.

30. Here, Petitioner was placed on ISAP/OSUP and remained fully compliant with all program requirements. At no point did Respondents revoke Petitioner’s ISAP/OSUP placement, issue a notice of violation, or identify any basis for terminating her conditional release.

Nevertheless, Respondents detained Petitioner while she was actively participating in ISAP/OSUP supervision.

31. Detaining a noncitizen without revoking the conditions of release under which she remains compliant exceeds the government's statutory authority under § 1226(a). The INA does not permit ICE to treat supervised release and physical detention as interchangeable or to detain an individual while simultaneously maintaining her placement in a community-based supervision program.

32. Such detention is untethered from the custody determination Congress authorized and is therefore ultra vires.

D. Unlawful Re-Detention Without Revocation of Supervised Release.

33. DHS released Petitioner on OSUP/ISAP and never revoked that release through any formal or informal process. ICE lacks statutory authority to re-detain an individual who remains subject to an unrevoked order of supervision without first providing notice, an opportunity to be heard, and a lawful basis for revocation.

34. The re-detention of Petitioner without revocation of her OSUP/ISAP constitutes agency action that is arbitrary, ultra vires, and contrary to law. Because Petitioner was lawfully at liberty pursuant to DHS's own supervisory determination, her current detention is unauthorized and unlawful.

E. Habeas Corpus Provides a Remedy for Detention Unsupported by Lawful Process.

35. Writ of habeas corpus has long served as the primary mechanism for challenging unlawful executive detention. The Supreme Court has made clear that civil immigration

detention must be supported by statutory authority and must bear a reasonable relationship to its purported purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

36. Federal courts retain habeas jurisdiction to determine whether immigration detention exceeds statutory or constitutional limits, including where detention continues despite the government's failure to adhere to the conditions and procedures governing release decisions.

F. Continued Detention Despite Pending Asylum and Ongoing ISAP/OSUP Placement Is Arbitrary and Unlawful.

37. Civil immigration detention is justified, if at all, as an incident to lawful immigration proceedings and subject to statutory constraints. Where the government has authorized an asylum seeker to remain in the community under supervision and has not revoked that determination, detention becomes arbitrary.

38. The Constitution does not permit the government to detain an individual who is pursuing congressionally authorized humanitarian relief, remains compliant with all supervision requirements, and poses no demonstrated flight risk or danger, without process or explanation.

G. Due Process Protects Petitioner's Liberty Interest While She Pursues Asylum.

39. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law, a protection that extends to all persons within the United States, including noncitizens. *Zadvydas*, 533 U.S. at 693.

40. Petitioner has a profound liberty interest in freedom from physical restraint and in her ability to pursue asylum. The risk of erroneous deprivation is acute where, as here, detention occurs without revocation of release, without notice, and without a hearing. The government's interest is minimal given its prior determination that supervised release was sufficient.

41. Detention under these circumstances violates the Due Process Clause.

H. Administrative Law Principles Further Prohibit Arbitrary Detention

42. Under the APA, agency action that is “arbitrary, capricious, [or] not in accordance with law” is unlawful. 5 U.S.C. § 706(2)(A). Agencies are bound to follow their own regulations and custody determinations, particularly where liberty is at stake. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954).

43. By detaining Petitioner without revoking her ISAP/OSUP placement or complying with the procedures governing conditional release under § 1226(a), Respondents have acted contrary to law and deprived Petitioner of the safeguards Congress and the agency itself established.

FACTS

44. Petitioner Cindy Carolina RIERA-RANGEL is a thirty-two-year-old native and citizen of Venezuela.

45. Ms. Riera-Rangel entered the United States on or about November 16, 2023, at or near El Paso, TX.

46. Ms. Riera-Rangel then filed Form I-589, which remains pending with the Immigration Court.

47. While her asylum application was pending—and while she was lawfully present in the United States pursuant to that filing. Ms. Riera-Rangel was detained by DHS on January 30, 2026, at or about 11:00 AM during her ISAP/OSUP appointment. Her ISAP/OSUP was never revoked.

48. As follows, Ms. Riera-Rangel has remained in ICE custody since January 30, 2026, and is currently being processed at the ERO El Paso Camp East Montana in El Paso, Texas.

49. Ms. Riera-Rangel has substantial ties to the United States and poses no risk of flight. She is not a danger to the community and has no criminal history. [See **Exhibit IV - Minnesota Criminal Offender Record Information printout**]. Ms. Riera-Rangel is the main caregiver of her two minor daughters and has deep community ties in the Twin Cities. [See **Exhibit V - Letters of Support from Cindy's Children School Teachers**]. Despite these significant positive equities, Ms. Riera-Rangel remains detained. Absent relief from this Court, she faces the prospect of months—or even years—in immigration custody, separated from her community and support system.

50. Any appeal to the Board of Immigration Appeals (the “Board”) is futile. The Board’s most recent precedential decisions have squarely foreclosed the position that the Immigration Judge has jurisdiction over requests for custody redetermination in similar situations, holding that persons like the Petitioner are subject to mandatory detention as applicants for admission.

CLAIMS FOR RELIEF

COUNT I

Violation of the Due Process Clause of the Fifth Amendment

(Unlawful Civil Detention Without Revocation of Release or Process)

51. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law. U.S. Const. amend. V. Freedom from physical restraint “lies at the heart of the liberty that the Due Process Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

52. Although the government possesses authority to detain noncitizens in connection with immigration proceedings, that authority is limited and must be exercised in accordance with

constitutional and statutory safeguards. *Id.* at 690–91; *Demore v. Kim*, 538 U.S. 510, 527–28 (2003) (upholding detention only where authorized by statute and accompanied by ongoing process).

53. Petitioner entered the United States without inspection and has no final order of removal. She has a pending Form I-589 filed pursuant to 8 U.S.C. § 1158. The pendency of that application authorizes Petitioner’s continued presence in the United States while adjudication is ongoing and reflects Congress’s intent that asylum seekers be permitted to pursue humanitarian protection without arbitrary detention.

54. Pursuant to 8 U.S.C. § 1226(a), Respondents previously determined that Petitioner did not warrant physical detention and released her into the community under the ISAP/OSUP. That determination constituted an individualized custody decision that Petitioner could safely remain at liberty subject to supervision.

55. Respondents detained Petitioner without revoking her ISAP/OSUP placement, without alleging any violation of release conditions, and without affording notice or an opportunity to be heard. Detention under these circumstances—where the government has affirmatively authorized supervised release and has not lawfully rescinded that determination—is arbitrary and violates both substantive and procedural due process. *Zadvydas*, 533 U.S. at 690; *Jennings v. Rodriguez*, 583 U.S. 513, 529 (2018) (preserving constitutional habeas review of immigration detention).

56. By detaining Petitioner without revoking her release, without an individualized custody determination, and without access to a neutral decisionmaker, Respondents have deprived Petitioner of liberty without due process of law in violation of the Fifth Amendment.³

³ See *Conejo Arias v. Noem*, No. 5:26-cv-00415 (W.D. Tex.) (habeas corpus petition filed Jan. 24, 2026 concerning immigration detention in the Western District of Texas, challenging the statutory basis for custody under the INA); *Guzman Martinez v. Noem*, No. 4:25-cv-06363 (S.D. Tex. Jan. 2026) (order to show cause requiring expedited

COUNT II

Violation of the Immigration and Nationality Act

(Detention Without Statutory Authority Under § 1226(a))

57. The INA authorizes civil detention only within carefully defined statutory limits. For noncitizens present in the interior of the United States, detention authority arises, if at all, under 8 U.S.C. § 1226(a), which expressly contemplates release on bond, parole, or other conditions following an individualized assessment.

58. Here, Respondents exercised their discretion under § 1226(a) and released Petitioner into ISAP/OSUP supervision. Having made that determination, Respondents lacked statutory authority to re-detain Petitioner absent a lawful revocation or modification of the release decision based on changed circumstances or alleged violations.

59. The INA does not authorize ICE to detain a noncitizen while simultaneously maintaining her placement in a conditional release program, nor does it permit detention untethered from the custody framework Congress established. *Zadvydas*, 533 U.S. at 690–91.

60. Because Respondents detained Petitioner without revoking her ISAP/OSUP placement and without complying with § 1226(a)'s procedural requirements, they acted in excess of statutory authority. Petitioner's continued detention therefore, violates the INA and is unlawful.

COUNT III

response on whether petitioner's detention is authorized under § 1225(b) or, alternatively, whether § 1226(a) applies, where the government had not contested § 1226(a) and § 1225(b) was asserted as the sole basis); *Granados v. Noem*, No. 5:2025-cv-01464, ___ F. Supp. 3d ___, 2025 WL ___ (W.D. Tex. Dec. 2025) (analyzing DHS's adoption of § 1225(b)(2) detention policy and concluding that § 1225(b)(2) is inapplicable to certain noncitizens present in the United States, such that § 1226(a) governs and entitles petitioners to a bond hearing); and *Diaz-Perez v. Thompson*, No. 5:25-cv-01664, ___ F. Supp. 3d ___, 2025 WL ___ (W.D. Tex. Dec. 2025) (holding that § 1225(b) does not apply to noncitizens who previously entered and have been physically present in the United States and that such individuals are instead subject to the discretionary detention scheme of 8 U.S.C. § 1226(a), which entitles them to a bond hearing).

Violation of the Administrative Procedure Act

(Agency Action Not in Accordance With Law; Excess of Authority)

61. The APA requires courts to set aside agency action that is arbitrary, capricious, an abuse of discretion, not in accordance with law, or taken in excess of statutory authority. 5 U.S.C. § 706(2)(A), (C).

62. Respondents' decision to detain Petitioner while leaving her ISAP/OSUP placement intact—and without issuing any revocation, notice of violation, or explanation—contravenes the INA's custody framework and DHS's own release determinations under § 1226(a).

63. Detaining an asylum seeker with a pending application, who remains compliant with all conditions of supervision, frustrates the statutory asylum scheme Congress established and constitutes arbitrary agency action. See *Judulang v. Holder*, 565 U.S. 42, 53 (2011).

64. Respondents' actions are therefore unlawful under the APA and must be set aside.

COUNT IV

Violation of the *Accardi* Doctrine

(Failure to Follow Required Custody and Release Procedures)

65. “Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures.” *Morton v. Ruiz*, 415 U.S. 199, 235 (1974); *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

66. Those procedures include DHS's custody regulations and practices governing release under § 1226(a), including ISAP/OSUP supervision and the requirements for revocation or modification of release conditions. See 8 C.F.R. § 236.1(c).

67. Respondents detained Petitioner without revoking her ISAP/OSUP placement, without identifying any violation of release conditions, and without following the procedures required to convert supervised release into physical detention. This unexplained departure from established custody procedures violates the Accardi doctrine.

68. As a result, Respondents have unlawfully deprived Petitioner of her liberty and interfered with her ability to pursue asylum and remain in the United States for the duration of that process. See *Osorio-Martínez v. Att’y Gen.*, 893 F.3d 153 (3d Cir. 2018).

COUNT V

Declaratory Judgment

(28 U.S.C. §§ 2201–2202)

69. Petitioner seeks a declaration that Respondents’ detention of an asylum applicant with a pending application, without revocation of § 1226(a) release and without lawful process, violates the Due Process Clause of the Fifth Amendment, the INA, the APA, and DHS’s regulations, exceeds Respondents’ statutory authority, and is arbitrary and capricious.

COUNT VI

Violation of the Suspension Clause

(U.S. Const. art. I, § 9, cl. 2)

70. The Suspension Clause guarantees access to the writ of habeas corpus to challenge unlawful executive detention. *Zadvydas*, 533 U.S. at 688.

71. Respondents’ detention of Petitioner, despite an existing release determination and without any mechanism for review or revocation, deprives her of meaningful access to habeas relief and violates the Suspension Clause. See *Osorio-Martínez*, 893 F.3d 153; *Orellana v. Nobles County*, 230 F. Supp. 3d 934, 944–46 (D. Minn. 2017).

PRAYER FOR RELIEF

WHEREFORE, the Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this habeas corpus petition pursuant to 28 U.S.C. § 2241;
2. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from immigration detention;
3. In the alternative, order that Petitioner be provided a prompt, individualized custody hearing before a neutral Immigration Judge under 8 U.S.C. § 1226(a), at which Respondents bear the burden of proving by clear and convincing evidence that continued detention is justified;
4. Declare that Respondents' detention of Petitioner (despite her pending asylum application and without revocation of her release under the ISAP/OSUP)
 - a. Violates the Due Process Clause of the Fifth Amendment;
 - b. Violates the Immigration and Nationality Act, including 8 U.S.C. § 1226(a);
 - c. Violates the Administrative Procedure Act, 5 U.S.C. § 706; and
 - d. Violates the Suspension Clause, U.S. Const. art. I, § 9, cl. 2;
5. Enjoin Respondents from continuing to detain Petitioner absent lawful statutory authority and compliance with the procedures governing release and revocation under 8 U.S.C. § 1226(a);
6. Order that Respondents inform Petitioner and her counsel of the time and location of release at least **four hours** in advance;

7. Order that, upon release, Respondents promptly return all personal property and belongings taken from Petitioner in connection with her detention;
8. Order that, if Petitioner has been transferred or relocated outside the State of Minnesota, Respondents **provide prompt transportation at government expense to the Federal Whipple Building in Fort Snelling, Minnesota, or another location in Minnesota designated by Petitioner or her counsel;** and
9. Grant all other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: 02/09/2026

s/Mai Neng Moua
Mai N. Moua Law Office
609 S. 10th St, Suite 120
Minneapolis, MN 55404
Attorneys for Petitioner

VERIFICATION

On this 9th day of February, 2026, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. I make this verification in lieu of Petitioner, Cindy Carolina RIERA-RANGEL, because the Petitioner is currently detained and due to the urgent nature of the relief requested. I am authorized to make this verification as a member of the legal team representing Petitioner, Cindy Carolina RIERA-RANGEL.

Dated: 02/09/2026

s/ Mai Neng Moua

Minneapolis, Minnesota

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