

JUDGE DAVID GUADERRAMA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED
FEB 09 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY CLERK

KATY ESCOBAR PAGOADA

Petitioner,

v.

Mary de Anda-Ybarra Acting/Director of
El Paso Field Office, U.S. Immigration and
Customs Enforcement; Warden, El Paso
Processing Service Center; Kristi Noem
Secretary of the U.S. Department of Homeland
Security; and Pamela Bondi, Attorney General
of the United States, in their official capacities,

Respondents.

Case No. _____

PETITION FOR WRIT OF
HABEAS CORPUS

EP26CV0385

INTRODUCTION

1. Petitioner Escobar Pagoada, Katy brings this petition for a writ of habeas corpus to seek enforcement of rights under U.S. Law and This Honorable's Court's recent opinions in *Aguinaga Trujillo v. Noem*, No. 5:25-cv-01266 (W.D. Tex. Oct. 28, 2025), *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP (W.D. Tex. Oct. 21, 2025), *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC (W.D. Tex. Sept. 22, 2025).
2. Petitioner

- a. is in the physical custody of Respondents at the El Paso Service Processing Center,
 - b. entered the United States without inspection almost 6 years ago, was apprehended upon arrival but then released on 3/17/2019,
 - c. Petitioner was then placed in removal proceedings and charged under INA Section 212(a)(6)(A)(i), as an “alien present in the United States without being admitted or paroled, or who arrived in the United States at any time and place other than as designated by the Attorney General.”
 - d. was subsequently detained at their scheduled ICE check in appointment on or about September 7, 2025,
 - e. and is now detained under 8 U.S.C. § 1225(b),
 - f. has no arrests or criminal history.
3. Petitioner had a bond hearing in November of 2025. The IJ found no jurisdiction. Bond hearing history or exhaustion is futile and not required as this is a purely legal issue. Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.” *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Case 5:25-cv-00773-JKP-ESC 11 Tex. 2007); see 8 U.S.C. § 1252(d)(1) (“A court may review a final order of removal only if . . . the alien has exhausted all administrative remedies.”).
4. Petitioner now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the U.S. Federal Court Case Law and the laws of the United States of America.
5. The Court should expeditiously grant this petition.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at the El Paso Processing Service Center.
7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).
8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. 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 Petitioner currently is detained.
10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2241 & 2243

11. A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the

writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

12. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted). “[A]bsent suspension, the writ of habeas corpus remains available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 US 507, 525 (2004). “A district court may grant a writ of habeas corpus if a petitioner is in federal custody in violation of the Constitution or federal law.” *Buenrostro-Mendez v. Bondi*, 2025 WL 2886346, *1 (SD Tex), citing 8 USC §2241 (internal citations omitted).

PARTIES

13. Petitioner Katy Escobar Pagoada is a citizen of Honduras who has been in immigration detention since August 27, 2025. After Petitioner was arrested at their ICE check-in appointment, ICE did not set bond, and Petitioner requested review of his custody by an IJ. In November of 2025, Petitioner was denied bond by an IJ because Petitioner was deemed detained under 8 U.S.C. § 1225 as an “applicant for admission.” Petitioner has resided in the United States since 2019.

14. Respondent Mary de Anda-Ybarra is the Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division. As such, Mary de Anda-Ybarra is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity.
15. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.
16. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.
17. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.
18. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.
19. Respondent WARDEN whose name is unknown as Warden of the El Paso Service Processing Center, where Petitioner is detained. He/she has immediate physical custody of Petitioner. He/she is sued in his/her official capacity.

CLAIM FOR RELIEF

Violation of the INA:

Request for Relief Pursuant to *Aguinaga Trujillo v. Noem*, *Hernandez-Fernandez v. Lyons*, and *Lopez-Arevelo v. Ripa*.

20. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

21. In *Aguinaga Trujillo v. Noem*, No. 5:25-cv-01266 (W.D. Tex. Oct. 28, 2025) this Court stated ordered release and stated that any later re-detention must proceed under § 1226 with an IJ bond hearing (Gov't burden). "His primary argument is that his detention violates the plain language of the INA because § 1225(b)(2)(A) does not apply to individuals who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a) that (1) expressly applies to individuals who are charged as inadmissible for having entered the United States without inspection and (2) allows for release on conditional parole or bond." "the Court concludes § 1225(b)(2) applies to noncitizens "seeking admission," and § 1226 applies to noncitizens such as Petitioner who are "already in the country."

22. In *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP (W.D. Tex. Oct. 21, 2025), ordered bond hearing within 14 days and required the Government to justify detention by clear and convincing evidence (or release). This case had the same fact pattern as our clients: EWI and detained at border. Subsequently released and then detained at a later date.

23. In *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC (W.D. Tex. Sept. 22, 2025) *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC (W.D. Tex. Sept. 22, 2025) — widely

cited in later El Paso decisions as ordering bond-hearing-or-release relief for detention without an IJ bond hearing under the new § 1225(b) theory. Same facts as Petitioner in this case.

24. In fact, this Court has regularly been interpreting the plain meaning of these U.S. statutes when granting Habeas Corpus release for individuals and rejecting the *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) argument from the Government. See *Santiago v. Noem*, No. 3:25-cv-00361-KC, Doc. 25 (W.D. Tex. Oct. 1, 2025), *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB (W.D. Tex. Oct. 16, 2025), *Rodriguez Cortina v. De Anda-Ybarra*, No. EP-25-CV-00523-DB (W.D. Tex. Nov. 18, 2025) and many more.
25. In our case, the Petitioner did not arrive through a border checkpoint but was nonetheless admitted with the issuance of release on own recognizance documents in the form of an I-220A.
26. Courts and plain reading of 8 U.S.C. § 1225 and 1226 have held this manner of release is only available through 8 U.S.C. § 1226, evidencing that Petitioner is eligible for bond.
27. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to abide by any Federal Court Order and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.
28. Respondents violate the INA in applying the mandatory detention statute at § 1225(b) to class members. Because Respondents are detaining Petitioner in violation of this Court's Orders issued in *Aguinaga Trujillo v. Noem*, *Hernandez-Fernandez v. Lyons*, and *Lopez-Arevelo v. Ripa*, the Court should accordingly order that the Court should order

Petitioner's release unless Respondents provide a bond hearing finding jurisdiction under 8 U.S.C. § 1226(a) within seven days.

29. The Court should expeditiously grant this petition as the Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

30. By denying Petitioner a bond hearing under § 1226(a) and asserting that Petitioner is subject to mandatory detention under § 1225(b), Respondents violate Petitioner's statutory rights under the INA and the Court's recent judgments.

Due Process

31. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding their detention. As the Supreme Court has explained, "[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 v. Davis*, 533 U.S. 678, 690 (2001).

32. The Government's blanket detention policy under Yajure Hurtado creates an extreme risk of erroneous deprivation by denying Petitioner any opportunity to demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means. Accordingly, due process requires an individualized bond hearing under § 1226(a).

33. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. See 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at

the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. See *id.* § 1226(c).

34. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, *id.* § 1231(a)(6). See *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA's detention authorities). 29. Since the Supreme Court's *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) decision, the Ninth Circuit has expressed "grave doubt" that "any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so."
35. To guarantee against such arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).
36. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification.
37. As a result, where the government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether

detention remains reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an “individualized determination as to [a noncitizen’s] risk of flight and dangerousness” may be warranted “if the continued detention became unreasonable or unjustified”); cf. *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249- 50 (1972) (noting that “lesser safeguards may be appropriate” for “short-term confinement”); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”).

38. Courts that apply a reasonableness test have considered three main factors in determining whether prolonged detention is reasonable. First, courts have evaluated whether the noncitizen has raised a “good faith” challenge to removal—that is, the challenge is “legitimately raised” and presents “real issues.” *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a “function of the length of the detention,” with detention presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; accord *Sopo*, 825 F.3d at 1217-18. Third, courts consider the likelihood that detention will continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after ninth months of detention, when the parties could “have reasonably predicted that Chavez-Alvarez’s appeal would take a substantial amount of time, making his already lengthy detention considerably longer”); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

39. Due process also requires certain minimal procedures at bond hearings. First, the government must bear the burden of proof by clear and convincing evidence to justify

continued detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if the government cannot meet its burden, a decisionmaker must assess a noncitizen's ability to pay a bond when determining the appropriate conditions of release.

40. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). The same is true for other contexts in which the Supreme Court has permitted civil detention; in those cases, the Court has relied on the fact that the government bore the burden of proof at least by clear and convincing evidence. See *United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pretrial detention where the detainee was afforded a “full-blown adversary hearing,” requiring “clear and convincing evidence” before a “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, inter alia, they placed burden on detainee); see also *Padilla v. Immigration & Customs Enf’t*, 379 F. Supp. 3d 1170 (W.D. Wash. 2019) (requiring the government to bear the burden of proof for class members who receive bond hearings after being found to have a credible fear of persecution or torture); *Banda v. McAleenan*, 385 F. Supp. 3d 1120-21 (in case of arriving asylum seeker, government must bear burden of proof to justify continued detention after noncitizen had been detained for more than 18 months).

41. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
42. First, incarceration deprives noncitizens of a “profound” liberty interest—one that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091- 92; see also *Foucha*, 504 U.S. at 80 (“It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” (citation omitted))
43. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. See *Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination proceedings because “numerous factors combine to magnify the risk of erroneous factfinding” including that “parents subject to termination proceedings are often poor, uneducated, or members of minority groups” and “[t]he State’s attorney usually will be expert on the issues contested”). Moreover, Respondents detain noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing. See *infra*.
44. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen’s immigration records and other information that it can use to make its case for continued detention.
45. In light of these considerations, “[t]he overwhelming majority of courts to consider the question . . . have concluded that imposing a clear and convincing standard would be most consistent with due process.” *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).

46. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. Her interest in liberty and family unity is paramount; the Government's blanket detention policy under Yajure Hurtado creates an extreme risk of erroneous deprivation by denying her any opportunity to demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means. Accordingly, due process requires an individualized bond hearing under § 1226(a).
47. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. See *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). It follows that alternatives to detention must be considered in determining whether prolonged incarceration is warranted.
48. Due process likewise requires consideration of a noncitizen's ability to pay a bond. “Detention of an indigent ‘for inability to post money bail’ is impermissible if the individual's ‘appearance at trial could reasonably be assured by one of the alternate forms of release.’” *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). As a result, in determining the appropriate conditions of release for

immigration detainees, due process requires “consideration of financial circumstances and alternative conditions of release” to prevent against detention based on poverty. *Id.*

49. Evidence about immigration detention and the adjudication of removal cases provide further support for the due process right to a bond hearing in cases of prolonged detention.

50. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: “the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); accord *Chavez-Alvarez*, 783 F.3d at 478; *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. “And in some cases[,] the conditions of their confinement are inappropriately poor.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting).

51. These conditions and obstacles only further underscore the serious due process concerns that prolonged immigration detention poses for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding continued detention.

52. Here, the Respondents can neither show that the continued detention of petitioner following her detention is reasonably related to the original purpose and the Mathews tests are satisfied. Similarly, no procedural safeguards are offered to those who remain in custody pending adjudication of their Court proceedings.

CLAIMS FOR RELIEF

COUNT TWO

Violation of 8 U.S.C. § 1226

53. The allegations in the above paragraphs are realleged and incorporated herein.
54. The mandatory detention provision at 8 U.S.C. § 1225(b) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.
55. This Honorable Court has ruled on this issue at least three times in *Aguinaga Trujillo v. Noem*, *Hernandez-Fernandez v. Lyons*, and *Lopez-Arevelo v. Ripa*.
56. Nonetheless, the Immigration Court IJs have a policy and practice of applying § 1225(b) to Petitioner.
57. The application of § 1225(b) to Petitioner is arbitrary, capricious, and not in accordance with law.
58. For these reasons, Petitioner's detention violates 8 U.S.C. § 1226.

COUNT THREE

Violation of Fifth Amendment Right to Due Process

59. The allegations in the above paragraphs are realleged and incorporated herein.
60. Unconstitutional Detention in Violation of the Fifth Amendment
61. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). 55. Civil immigration detention is only permissible where it bears a "reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690.

Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

62. Neither community protection nor flight risk applies to the Petitioner, and therefore, the detention no longer bears a reasonable relation to the purpose for which it was committed. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690.
63. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT FOUR

64. The allegations in the above paragraphs are realleged and incorporated herein.
65. Respondent was given release on own recognizance documents when originally released from ICE custody.
66. These documents, also known as conditional parole (as opposed to humanitarian parole) are only permitted under 8 U.S.C. § 1226(a)(2)(B).¹
67. This argument is straight from the U.S. Supreme Court in *Jennings v. Rodriguez*. *"With a few exceptions not relevant here, the Attorney General may 'for urgent humanitarian reasons or significant public benefit' temporarily parole aliens detained under [INA § 235(b)(1) and (b)(2)] INA § 212(d)(5)(A). That express exception to detention implies that there are no other circumstances under which aliens detained under § 235(b) may be released."*² (emphasis added). For reference, INA § 235(b) is the current 8 U.S.C. § 1225.

¹ (a) Arrest, detention, and release On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General— (1) may continue to detain the arrested alien; and (2) may release the alien on— (A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole

² *Jennings*, 138 S. Ct. at 834 citing *Matter of M-S-* Decided by Attorney General. 27 I&N Dec. 509 (A.G. 2019)

68. This shows that even ICE treated Petitioner as subject to non-mandatory § 1226 detention.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing finding jurisdiction under 8 U.S.C. § 1226(a) within seven days or order Petitioner's immediate release;
- d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- e. Grant any other and further relief that this Court deems just and proper.

DATED February 5, 2026.

Respectfully submitted,

/s/ John Dutton



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PROPOSED ORDER

Upon consideration of Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, the Court finds that Petitioner has raised substantial questions regarding the legality of continued detention without an individualized custody determination.

Accordingly, it is ORDERED that:

1. Respondents shall SHOW CAUSE, in writing, within ____ days of the entry of this Order, why the Petition should not be granted.
2. In the alternative, Respondents are ORDERED to provide Petitioner with an individualized bond hearing before an Immigration Judge who must find jurisdiction under 8 U.S.C. § 1226 within ____ days of the entry of this Order.
3. At the bond hearing, the Immigration Judge shall conduct an individualized custody determination, considering whether Petitioner presents a danger to the community or a risk of flight, and shall have the authority to set a reasonable bond or order release on appropriate conditions, consistent with due process.
4. Respondents shall file a notice with the Court confirming compliance with this Order and the outcome of the bond hearing within ____ days after the hearing.
5. Petitioner may file a reply within ____ days after Respondents' response or notice of compliance.
6. Pending further order of the Court, the Court retains jurisdiction over this matter.

7. The Court may resolve this matter without a hearing or may set the matter for hearing if it determines that additional proceedings are necessary.

IT IS SO ORDERED.

SIGNED this ____ day of _____, 2026.

UNITED STATES DISTRICT JUDGE

VERIFICATION BY PERSON ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242

I, John Dutton, declare under penalty of perjury that I am counsel for Petitioner and am acting on Petitioner's behalf pursuant to 28 U.S.C. § 2242. I have reviewed the foregoing Petition for Writ of Habeas Corpus and state that the facts contained therein are true and correct to the best of my knowledge, information, and belief.

February 5, 2026.

Respectfully submitted,

/S/ John Dutton



Attorney for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system and US mail to the addresses below.

/S/ John Dutton, Attorney for Petitioner



February 5, 2026

U.S. Attorney General , 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001

700 E. San Antonio, Suite 200 El Paso, Texas 79901

Office of the Executive Secretary
MS 0525 Department of Homeland Security
2707 Martin Luther King Jr Ave SE
Washington, DC 20528-0525

U. S. Department of Homeland Security
Immigration and Customs Enforcement

Order of Release on Recognizance

Name: ESCOBAR-PAGOADA, KATY YORELIFile No: [REDACTED]Date: March 13, 2019

You have been arrested and placed in removal proceedings. In accordance with Section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions.

☒ You must report for any hearing or interview as directed by the Immigration and Naturalization Service or the Executive Office for Immigration Review.

☒ You must surrender for removal from the United States if so ordered.

☒ You must report in (writing)(person) to Reporte en persona a Miami Field Office
(Name and Title of Case Officer)

At 2805 SW 145th Avenue on Wednesday, March 27, 2019 at 10:00 AM
Miramar, FL 33027 miércoles, 27 de marzo de 2019
Telephone: 954-843-5800 (Location of INS Office) (Day of each week or month) (Time)

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

☒ You must not change your place of residence without first securing written permission from the office listed above.

☒ You must not violate any local, State, or Federal laws or ordinances.

☒ You must assist the Immigration and Naturalization Service in obtaining any necessary travel documents.

☒ You may not travel outside a 75 mile range outside of Miami, FL 33150

without first securing written permission from the office listed above. (initial travel from El Paso, TX to residence permitted)

☒ See attached sheet containing other specified conditions.

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Immigration and Naturalization Service.

(Signature of INS Official)

Christopher L. Wilson

Supervisory Detention and Deportation Officer

(Printed Name and Title of Official)

Alien's Acknowledgment of Conditions of Release on Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in SPANISH language), the contents of this order and addendum, a copy of which has been given to me. I understand that failure to comply with the terms of this order and addendum may subject me to a fine, more restrictive release conditions, detention, criminal prosecution, and/or revocation of my employment authorization document.

Jose L. Martinez DO

(Signature of INS Official Serving Order)

X Katy Escobar

Signature of Alien

3/13/19

(Date)

Cancellation of Order

I hereby cancel this order of release because: ☐ The alien failed to comply with the conditions of release.

☐ The alien was taken into custody for removal.

(Signature of INS Official Canceling Order)

(Date)

Form I-220A (Rev. 4-1-97) N

Please note that all references in this order/addendum to "INS" or "Service" should now be considered to refer to U.S. Immigration and Customs Enforcement (ICE).

U. S. Department of Homeland Security
Immigration and Customs Enforcement

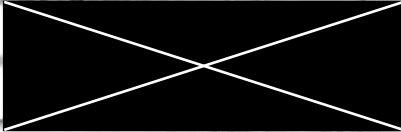
Continuation Page for Form: Release on Recognizance I-220A

Alien's Name ESCOBAR-PAGOADA, KATY YORELI	File Number 	Date 3/13/19
---	--	------------------------

X Katy Escobar
Signature of Alien



Alien's Address
Jorge Escobar (Father)



Alien's Telephone Number (if any)


RIGHT INDEX PRINT



PERSONAL REPORT RECORD

DATE	OFFICER	COMMENT/CHANGES
03/13/19	Jose L. Martinez DO	Released on ORR due to lack of space Enrollment into AFD recommended for the parent in this family unit

Date: 3-27-19 Reported to Miramar ICE/LRO/relative NCIC OFFICER # 3-27-2020 *Reports to Window*

Date: 5/25/21 Reported to Miramar ICE/LRO/relative NCIC OFFICER # 5/26/2022 @ 10AM

Signature: **Jose L. Martinez DO**



Deportation Officer

Please note that all references in this order/addendum to "I-10" or "Services" should now be considered to refer to U.S. Immigration and Customs Enforcement (ICE).

ORIGIN ID: NQIA (713) 359-9302
J DUTTON
JOHN DUTTON LAW PLLC
11111 KATY FWY
SUITE 910
HOUSTON, TX 77079
UNITED STATES US

SHIP DATE: 05FEB26
ACTWGT: 2.00 LB
CAD: 266837748/INET4535
DIMS: 9x1x13 IN
BILL SENDER

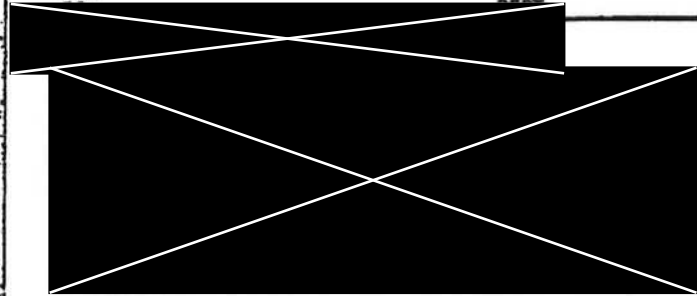
0 US DISTRICT CLERK OFFICE
EL PASO WDTX
525 MAGOFFIN AVE
SUITE 105
EL PASO TX 79901

SCREENED BY CSO

FEB 09 2026

(915) 534-6725
INV:

REF:



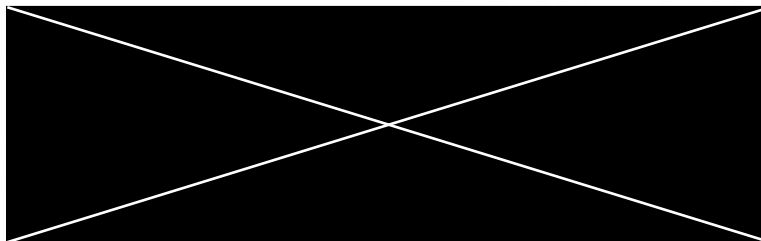
MON - 09 FEB 10:30A
MORNING 2DAY

TRK# 8885 3198 0678
0201

BA ELPA

79901

TX-US ELP



SCREENED BY CSO

FEB 09 2026



FILED

FEB 09 2026

CLERK, U.S. DISTRICT C
WESTERN DISTRICT OF
BY am DEPUTY