

**JUDGE LEON SCHYDLOWER**

**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

2026 FEB 10 PM 2:52  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY  DEPUTY

**RUVICELIA AGUILAR MARTINEZ**

v.

**EP 26CV0402**

**WARDEN,  
EL PASO SERVICE PROCESSING CENTER;  
MARY DE ANDA-YBARRA,  
FIELD OFFICE DIRECTOR,  
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;  
TODD M. LYONS,  
ACTING DIRECTOR, U.S. IMMIGRATION  
AND CUSTOMS ENFORCEMENT;  
KRISTI NOEM,  
SECRETARY OF THE UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY;  
PAM BONDI,  
ATTORNEY GENERAL OF THE UNITED STATES**

**PETITION FOR WRIT OF HABEAS CORPUS FOR IMMIGRATION**

TO THE HONORABLE JUDGE OF SAID COURT

Comes now, Petitioner/Plaintiff, Ruvicelia Aguilar Martinez, by and through her undersigned counsel of record and hereby petitions this Honorable Court to issue a writ of habeas corpus to order her immediate release, or in the alternative, ORDER the administrative law judge to hold a bond hearing and consider her release from the custody of the United States Department of Homeland Security, Immigration and Customs Enforcement and her continued detention is a violation of due process and constitutes unlawful detention, as Homeland Security and umbrella organizations have concluded the Petitioner is subject to mandatory detention.

**BACKGROUND**

The Petitioner is charged via a DHS Form I-862, a Notice to Appear, for entering the United States at or near an unknown place, unknown date, and not being admitted or inspected (Exhibit 1). The Petitioner requested bond on or about 28 July 2025, with the immigration judge taking no action based on the new articulation within their Government agency that *Matter of Yajure Hurtago*, 29 I&N Dec. 216 (BIA 2025) deprives immigration judges of having jurisdiction for bond matters on individuals deemed to be arriving aliens. This case is different in that the immigration judge refused to act on the bond request. Immigration courts have become so lawless that immigration judges are now not even acting on certain bond requests if they determine the individual requesting bond is an arriving alien and *Matter of Yajure Hurtago* applies. (Exhibit 2)

The petitioner is not subject to mandatory detention. All listed respondents have concluded that an individual such as the petitioner, who allegedly entered without parole and/or inspection, is nevertheless an applicant for admission and is someone seeking admission, therefore subject to mandatory detention under Immigration and Nationality Act § 1225(b)(2)(A). Individuals who reside in the United States and continue to do so, as is the case here, with the Petitioner having resided in the United States since 1997 (Exhibit 3), are subject to a different statute, § 1226(a), which allows for release on a conditional parole or bond. The statute expressly applies to people who, like Petitioner, have been charged with inadmissibility for having entered the United States without inspection. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be released unless listed Respondents provide a bond hearing under § 1226(a) within fourteen days, where the Government bears the burden of proof to show by clear and convincing evidence that the petitioner is a flight risk and/or a danger to the community.

### **JURISDICTION**

This Court has habeas jurisdiction pursuant to 28 U.S.C. § 2241, Art. 1 § 9, Cl 2. Of the United States Constitution and common law. This Court may also exercise jurisdiction pursuant to 28 U.S.C. § 1331 and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq, and the All Writs Act, 28 U.S.C. § 1651.

### **VENUE**

The venue lies within the United States District Court for the Western District of Texas, El Paso Division, as the Petitioner is physically being held in custody at the El Paso Service Processing Center located at 8915 Montana Ave, El Paso, TX 79925.

### **REQUIREMENTS OF 28 U.S.C. § 2243**

The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the respondents unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. In order to show cause is issued, the Court must require respondents to file a return within three days, unless for good cause. Courts have long recognized the significance of the habeas corpus statute in protecting individuals, and the importance of a swift and imperative remedy in all cases of illegal restraint or confinement, *Fay v. Noia*, 372 U.S. 391, 400 (1963).

### **PARTIES**

**Petitioner**, Ruvicelia Aguilar Martinez, is a native and citizen of Mexico who has been held in detention since on/about July 2026. She is currently detained in the El Paso Processing Center. **Respondent**, the **Warden of the El Paso Service Processing Center**, is sued in his official capacity. The Warden is the chief executive authority over the administration of the El Paso Processing

Center. **Respondent, Marv De Anda-Ybarra**, is sued in her official capacity as the Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement. **Respondent, Todd M. Lyons**, is sued in his official capacity as the Acting Director of U.S. Immigration and Customs. Respondent Lyons is a legal custodian of Petitioner and has the authority to release her. **Respondent, Kristi Noem** is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, an agency responsible for Petitioner's continued confinement. **Respondent, Pam Bondi** is sued in her official capacity as the Attorney General of the United States and the senior official in the U.S. Department of Justice. In that capacity she has the authority to adjudicate removal cases and to oversee the Executive Office of Immigration Review, which administers the immigration courts and Board of Immigration Appeals. Bondi is the legal custodian of Petitioner.

#### **LEGAL FRAMEWORK**

The Petitioner's detention under 8 U.S.C. § 1225 (b)(2)(A) is unlawful, and her custody is properly governed by 8 U.S.C. § 1226(a). § 1225(b) and §1226(a) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Following the enactment, the Department of Justice drafted regulations stating that people who had entered the United States without inspection and had been continuously in the United States for over two years were not considered detained under §1225 but rather under §1226. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings Asylum Procedures, 62 Fed. Reg. 10312, 10355 (Mar. 6, 1997).

However, on or about 8 July 2026, ICE, in coordination with DOJ, announced a new policy that rejected well-established law and concluded that all persons who entered the United States without inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore, subject to mandatory detention. In September 2025, a published decision, *Matter of Yajure Hurtago*, 29 I&N Dec. 216 (BIA 2025), adopted this position. The decision held that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for bond.

Since then, numerous courts have concluded that this interpretation defies the INA, as the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people such as the petitioner. In November 2025, the U.S. District Court of the Central District of California issued an order in *Maldonado Bautista v. Santacruz*, certifying a nationwide class of noncitizens who are in immigration detention and being denied access to bond hearings as the Government (for the people by the people), alleging that people like the petitioner are considered arriving aliens.

§1226 applies by default to all persons pending a decision on whether a noncitizen is to be removed from the United States. These removal hearings are held under § 1229a to decide the inadmissibility or deportability of a noncitizen. Additionally, the text of § 1226 applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The law is premised on people seeking admission. Even in *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018), the Supreme Court explained that mandatory detention is applicable at the nation’s borders and ports of entry, for those seeking admission.

The Constitution establishes due process rights for all persons, regardless of status. These rights are both substantive and procedural. They protect against arbitrary action by the government, *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including the exercise of power without reasonable justification. *Cnty of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). Moreover, the Constitution requires some kind of hearing before the State deprives a person of liberty or property, *Zinerman v. Burch*, 494 U.S. 113, 127 (1990).

### **FACTS**

Petitioner has arrived in the United States and, as shown by her enclosed application, was inspected and admitted. *See Matter of Quilantan*. The INA defines admission as the lawful entry of the alien into the United States after inspection and authorization by an immigration officer. *Ottey v. Ban*, 965 F.3d 88 (2<sup>nd</sup> Cir. 2020). She has been residing in the United States for nearly thirty years, has qualifying US citizen relatives, and has no criminal record. To this date, the Petitioner has been detained since on or about July 2025. If released, the respondent would return to her prior residence in Texas. (Exhibit 3)

### **EXHAUSTION OF REMEDIES**

There is no statutory exhaustion requirement in 28 U.S.C. § 2241. However, the Court may require prudential exhaustion, which may be waived if administrative remedies are inadequate or would be futile. Despite the fact that the Petitioner requested bond before an immigration judge, the administrative law judge refused to take action and stated in a separate proceeding that the Petitioner is not eligible for bond. Accordingly, any efforts to obtain relief from the Respondent are fruitless.

**CLAIMS FOR RELIEF**

**Violation of the Immigration Nationality Act:** The mandatory detention provision of 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States. The application of §1225 (b)(2) is unlawful and therefore, Petitioner requests this Court remedy this unlawful application of the law and grant bond, or in the alternative ORDER the immigration judge to conduct a bond hearing.

**Violation of the Due Process Clause of the 5<sup>th</sup> Amendment:** The Due Process Clause of the 5<sup>th</sup> Amendment prohibits the federal government from depriving any person of life, liberty, or property without due process of law. Due process protects all persons within the United States. Moreover, immigration detention is constitutionally permissible only when it furthers a government goal i.e., noncitizens appearing for court dates and protecting the community. In this case, the petitioner has resided in the U.S. for nearly 30 years, has no criminal record, and has strong ties to her community. Having a stable residence, strong family ties, as well as eligibility for immigration relief to permit her legal status, shows she is neither a flight risk nor a danger to the community. Because Petitioner has shown and can show her strong ties to the community, strong evidence that she would not be a flight risk, having already filed forms of relief, and having no criminal record, show that her continued confinement violates her 5<sup>th</sup> Amendment rights.

Moreover, not only are the Petitioner's 5th Amendment rights being violated substantively, but her 5th Amendment rights are also being violated procedurally. Here, the Petitioner's detention without even a hearing violates her procedural due process rights. The failure of the Respondent's to provide an opportunity for her to show is not a flight risk and/or a danger to the community and obtain her liberty, has violated her constitutional due process rights.

**PRAYER FOR RELIEF**

Petitioner requests this Court grant the following:

1. Assume jurisdiction over this matter.
2. Issue a Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
3. Order a Bond Hearing be conducted in 7 days.
4. Declare the Respondent's have violated the Due Process Protections of the Petitioner.
5. Issue a Writ of Habeas Corpus ordering Respondent's to release Petitioner from Custody.
6. Issue an Order prohibiting the Respondent's from transferring the Petitioner to another jurisdiction.
7. Order that Respondent's may not place Petitioner in expedited removal proceedings.
8. Grant any further relief this Court deems appropriate.

Respectfully,

**/s/ Matthew James Kozik**

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**VERIFICATION OF COMPLAINT**

I, Matthew James Kozik, state under penalty of perjury that I am the attorney of record for Petitioner and declare the facts alleged here to be true to the best of my knowledge.