

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

LLEYMI VALENZUELA SANCHEZ,

Court File No. 3:26-cv-404

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security, PAMELA BONDI, in her official capacity as Attorney General of the United States, TODD LYONS, in his official capacity as Acting Director, United States Immigration and Customs Enforcement, JOEL GARCIA, in his capacity as ICE El Paso Field Office Director, and JOHN DOES, in his official capacity as the Warden of the El Paso Camp East Montana, Texas,

**EMERGENCY PETITION FOR
WRIT OF HABEAS CORPUS**

Expedited Handling Requested

Respondents.

INTRODUCTION

1. Petitioner Lleymi Valenzuela Sanchez was detained by officers of Respondents on January 22, 2026, at the ISAP offices in Bloomington, Minnesota during her monthly check-in with the ISAP office. When Petitioner asked Respondents' agents why she was being detained, the agents stated that Petitioner had missed one of her mandated check-ins with ISAP. This was false; Petitioner has never missed an ISAP check-in. When Petitioner responded that she had attended every mandated in-person check-in, the agents then contended that Petitioner had failed to verify her location and status via the SmartLINK app. Again, this was false. Petitioner informed the agents that

she had never missed a SmartLINK verification, she had never missed any in person check-ins, and that she was available for every scheduled in-home visit. Although Respondents' agents were at the ISAP offices and could have easily verified whether Petitioner had missed any of her required appointments, they chose not to do so. Instead, they stated, "shut up, you are illegal," and detained and transported Petitioner to the Whipple Building.

2. After receiving word that Petitioner had been detained, Petitioner's counsel traveled to the Whipple Building on the afternoon of January 22, 2026. Respondents' agents rejected counsel's request to meet with Petitioner at the Whipple Building, and Petitioner was immediately transferred to this District without the ability to meet with counsel.

3. Petitioner's detention is unlawful under the Fourth Amendment, the Fifth Amendment, the Immigration and Nationality Act, the Administrative Procedure Act, and applicable law. Because Respondents violated Petitioner's constitutional and statutory rights, this Court should grant this Petition, immediately release Petitioner during the pendency of this proceeding, and, in three days or less, order Respondents to show cause as to why this Court should not order Petitioner's permanent release.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (habeas corpus); U.S. Const. art. I, § 9, cl. 2 (the Suspension Clause); 5 U.S.C. § 701 *et seq.* (the Administrative Procedure Act), and 5 U.S.C. § 702 (waiver of sovereign immunity).

5. Further, an actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201, and this Court has authority to grant declaratory and injunctive relief. *Id.* §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651.

6. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). 28 U.S.C. § 2241; *see also Demore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 291–95(2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

7. Venue is proper in this district pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Respondents are holding Petitioner at the Camp East Montana detention facility at Fort Bliss in El Paso, Texas (“Camp East Montana”), which is within the jurisdiction of this District.

THE PARTIES

8. Petitioner Lleydi Valenzuela Sanchez is a citizen of Mexico. She entered the United States on around July 2, 2023. On or about March 11, 2024, Petitioner filed an application for a U visa. The application is pending. On or about September 24, 2024, Victor Delgado, Petitioner’s son, filed an I-130 Petition for an Alien Relative (Petitioner). The I -130 Petition remains pending. Petitioner is currently detained and in the custody of Respondents at Camp East Montana.

9. Respondent Kristi Noem is sued in her official capacity as the Secretary of DHS. In this capacity, Noem is responsible for the implementation and enforcement of

the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq. She oversees Immigration and Customs Enforcement (“ICE”) and Customs and Border Protection (“CBP”), the component agencies responsible for Petitioner’s arrest, detention, and custody. Noem is a legal custodian of Petitioner and has authority to release her.

10. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (“DOJ”). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner and has authority to release her.

11. Respondent Daren Margolin is sued in his official capacity as Acting Director of the EOIR. Margolin is a legal custodian of Petitioner and has authority to release her.

12. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE. Respondent Lyons is a legal custodian of Petitioner and has authority to release her.

13. Respondent John Doe is the Warden of Camp East Montana who has immediate physical custody of Petitioner pursuant to the facility’s contract with ICE to detain noncitizens and is a legal custodian of Petitioner. Respondent Doe is a legal custodian of Petitioner.

STATEMENT OF FACTS

14. During 2022, Petitioner and her two minor children were living in Mexico. As a result of events that are detailed in her I-918 Petition for a U visa, Petitioner was forced to go into hiding. During that period, Petitioner feared for her life and for the lives of her minor children.

15. In June of 2023, Petitioner arranged for her two minor children to join her adult sons in Minnesota. During roughly the same time, Petitioner took the steps necessary to set up an appointment to enter the United States pursuant to the CBP program.

16. On or about June 19, 2023, Petitioner received a notice from the CBP program that she should appear for an appointment on July 2, 2023 at the border crossing at San Ysidro, California.

17. On June 2, 2023, consistent with the CBP notice, Petitioner arrived at the border crossing at San Ysidro, California.

18. At the border crossing, Petitioner was interviewed by an Immigration and Customs official. During the interview, Petitioner notified the Immigration and Customs Enforcement official of a 2010 criminal conviction. After learning of the conviction, the officer asked Petitioner to wait outside. Petitioner was eventually called back into interview room, where the Immigration and Customs Enforcement Official asked Petitioner a series of questions regarding the conviction. Petitioner provided context regarding her 2010 conviction, explained that she had completed her probation and that restitution required by her sentence had been paid in full.

19. Petitioner also described her current circumstances and the basis for her belief that her life and the lives of her two minor children, both of whom are American Citizens, were in danger.

20. On or about July 2, 2023, Respondents conditionally released Petitioner. Release documents directed Petitioner to appear at the Whipple Building in Minnesota on July 18, 2023 at 12 p.m.

21. The Release documents also included a Notice to Alien, which provides in part:

Your Release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of [your] release conditions or your arrest and detention.

The Release Documents are attached hereto as Exhibit A.

22. On or about July 2, 2023, Respondents also provided Petitioner with a Notice to Appear. The Notice to Appear directed Petitioner to appear at the Whipple Building on June 12, 2024 at 8:30 a.m. The Notice to Appear is attached hereto as Exhibit B.

23. On or about July 3, 2023, Respondents provided Petitioner with a Participant Agreement for Voluntary Participation in the ISAP Electronic Monitoring Program. The Agreement authorized Petitioner to travel to Minnesota and required Petitioner to arrive by July 18, 2023. A copy of the Participant Agreement is attached hereto as Exhibit C

24. As directed by Respondents, Petitioner appeared at the Whipple Building on July 18, 2023.

25. On or about July 18, 2023, Respondents referred Petitioner to the ISAP program and directed her to appear at the ISAP offices in Bloomington, Minnesota immediately. Petitioner did so.

26. On or about August 3, 2023, an ISAP Case Specialist provided Petitioner with an Individual Service Plan.

27. The Individual Service Plan required Petitioner to make office visits every two weeks, for ISAP to make home visits every twelve weeks, for Petitioner to use the SmartLINK app to verify her location weekly, and for Face-to-Face reporting, every eight weeks on Thursdays at 10:15. The Individual Service Plan provided by ISAP is attached hereto as Exhibit D.

28. Petitioner has complied with all of the conditions set forth in her Service Plan, and otherwise complied with all instructions from the ISAP officers.

29. On or about October 18, 2023, Petitioner filed an I-765 Application for Employment Authorization.

30. The Application was granted, and Petitioner was issued a Category 11 Employment Authorization Card that was valid from November 15, 2013, through June 30, 2025.

31. On or about March 11, 2024, Petitioner filed an I-918 Petition for a U visa. Petitioner's U visa application is attached hereto as Exhibit E.

32. On or about September 24, 2024, Victor Delgado, Petitioner's son, filed an I-130 Petition for an Alien Relative (Petitioner). The I -130 Petition remains pending.

33. On or about January 11, 2025, Petitioner applied for an extension to her Category 11 Work Authorization.

34. On or about May 8, 2025, Petitioner received notice that her Petition seeking an extension of her Category 11 Work Authorization had been denied. The Denial Notice indicated that Petitioner's parole "has expired or been terminated."

35. On or about May 7, 2025, Petitioner filed another Petition to have her Work Authorization extended. This request was based on the pending I-918 application for a U visa and seeks a Category 14 Work Authorization. The request remains pending.

36. On or about August 25, 2025, Petitioner filed a Motion to Administratively Close the Removal Proceedings. The Motion is attached hereto as Exhibit F. Petitioner's Motion to Administratively Close the Removal Proceedings remains pending.

37. After filing the Motion, Petitioner continued to comply with the requirements of her Individual Service Plan. Each week, she used the SmartLINK app to verify her location and to answer the questions required.

38. Each time she was scheduled for a Face-to-Face visit, Petitioner appeared at the ISAP offices in Bloomington. This continued through September, October, November, and December of 2025, and in January of 2026.

39. Petitioner has lived in Anoka, Minnesota since 2023 with one of her sons and her two minor daughters. Petitioner's 78-year-old mother, who holds a valid Green Card, also lives with Petitioner five days a week.

40. Petitioner has established a community in Anoka. Petitioner worked at an international distribution facility in Anoka, Minnesota and Petitioner's manager, co-workers, and the owner of the company view her as a valuable member of the team.

41. Petitioner's minor daughters suffer from mental health and other medical issues, including Post Traumatic Stress Disorder. Petitioner has arranged for professionals to provide medical and mental health treatment for both daughters, and she has otherwise been the primary caregiver for her daughters.

42. Petitioner's mother also suffers from several health conditions. Petitioner has been the primary caregiver for her 78-year-old mother, and Petitioner, who is bilingual, is responsible for attending medical and dental appointments with her mother.

43. Petitioner's only criminal conviction occurred in 2010. Since 2010, she has no criminal record. Petitioner disclosed her conviction in July of 2023 when she entered the United States, , was thereafter released subject to conditions, and has otherwise fully cooperated with the terms of her release since her arrival.

44. On Thursday January 22, 2026, at approximately 10:15 a.m., Petitioner appeared at ISAP offices in Bloomington for her regularly scheduled Face-to-Face visit.

45. The Face-to-Face check-in on January 22, 2026, however, was different than her previous check-ins. This time, rather than verifying her address and otherwise confirming that things have not changed with ISAP Officer Guerrero, Petitioner was directed to another office, where Respondents' agents were waiting.

46. Petitioner asked Respondents' agents if they had a warrant to detain her. Respondents' agents did not provide Petitioner with any evidence that they had a warrant.

47. Petitioner then asked why she was being detained. Respondents' agents initially alleged that Petitioner violated the conditions of her release by failing to appear at a Face-to Face check-in. Petitioner pushed back, arguing that she had not missed an appointment. Petitioner further suggested that Respondents' agents could verify that fact with ISAP Officer Guerrero, who was present in the building. Although the records regarding Petitioner's conditions of her release were readily available, Respondents' agents chose not to do so.

48. Respondents' agents then alleged that Petitioner had failed to comply with the requirement that she verify her location weekly through the SmartLINK app. Again, Petitioner pushed back and argued that she had never missed a SmartLINK verification.

49. At that point, Respondents' agent told Petitioner to "shut up, you are illegal," Respondents' agents then transported Petitioner to the Whipple Building.

50. Respondents' agents did not provide any further explanation for her detention.

51. Upon information and belief, Respondents did not have a warrant to detain Petitioner.

52. At the Whipple Building, Petitioner informed Respondents that her two minor children were at school, and that she was the primary caregiver for her two daughters. Respondents stated that if Petitioner informed Respondents where her children were, they would go and get them, and that they could be removed together. Both of Petitioners' minor children are United States citizens.

53. On or about 3:50 p.m. on January 22, 2026, counsel for Petitioner arrived at the Whipple Building. Counsel attempted to schedule a meeting with Petitioner while she was being detained at the Whipple Building. He was informed by Whipple staff that no meetings with detainees were being allowed at that time, and that he could not speak to his client until after his client was processed and transferred.

54. Petitioner was forced to sleep on a concrete floor of an overcrowded room next to a toilet, with roughly 20 other women who had been detained. Petitioner describes the holding room as roughly the size of a small apartment bedroom. Petitioner's request for a blanket was denied. On January 24, 2026, Respondents transferred Petitioner to the Camp East Montana detention facility in El Paso, Texas.

55. Shortly after arriving at Camp East Montana, Respondents' agents urged Petitioner to sign a Self-Deportation Agreement. Rather than sign the agreement, Petitioner asked to speak to a lawyer. Respondents' agents refused her request. Instead, they informed her that she would be allowed to make a call after she signed the Self-Deportation Agreement. Petitioner refused. Three days later, Petitioner was permitted to phone her son.

56. Petitioner has remained at Camp East Montana since. The conditions of her detention are poor and are deteriorating. The amount of food provided has declined, and food provided to detainees is often spoiled.

LEGAL FRAMEWORK

Due Process

57. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. A petitioner may seek a writ of habeas corpus when their custody violates the U.S. Constitution or federal law. 28 U.S.C. § 2241.

58. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation omitted).

59. Immigration detention is civil and must “bear[] a reasonable relation to the purpose for which the individual [is detained]” so that it is “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (cleaned up). There are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See id.* at 683; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017). “Retribution and deterrence are not legitimate nonpunitive governmental objectives.” *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979).

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment to the United States Constitution – Due Process

Respondents are Confining Petitioner without A Valid Legal Basis or any Semblance of Due Process.

60. Petitioner realleges and incorporates by reference each and every allegation contained above.

61. The Constitution establishes due process rights for all “persons” within the United States, including noncitizens, whether their presence is lawful, unlawful, temporary, or permanent. *Zadvydas*, 533 U.S. at 693.

62. On or about January 22, 2026, Petitioner arrived at the ISAP Offices in Bloomington, Minnesota, just as she had done numerous times since she arrived in Minnesota in July of 2023.

63. When Petitioner asked Respondents’ agents if they had a warrant for her arrest, they did not respond. Instead, Respondents’ agents informed Petitioner that she had missed one in-person check-in. Respondents’ agents’ allegations were false; Petitioner had never missed a scheduled check-in.

64. Respondents’ agents then alleged that Petitioner had failed to verify her location with the SmartLINK app. Again, Respondents’ agents’ allegations were false; Petitioner had never missed a SmartLINK verification.

65. Since July of 2023, when Petitioner arrived in Minnesota, Petitioner has complied with the terms of her release, and there has been no change in circumstances establishing a legal justification for her detention.

66. The Due Process Clause applies regardless of whether a noncitizen’s presence is lawful, unlawful, temporary, or permanent—and regardless of whether detention is purportedly authorized by Sections 1225 or 1226. *Id.*; *Hernandez*, 872 F.3d at 990 (“[I]t is well-established that the Due Process Clause stands as a significant constraint on the manner in which the political branches may exercise their plenary authority.”). A

noncitizen's interest in freedom from physical restraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

67. Where, as here, a noncitizen is initially released on parole and later re-detained, several Courts have repeatedly recognized that such individuals possess a protected liberty interest in remaining out of custody. See *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 687 (W.D. Tex. 2025) ("[T]he Court finds that detaining [petitioner] without any individualized assessment of his flight risk and dangerousness deprives him of his constitutional right to procedural due process under the Fifth Amendment of the United States Constitution."); *Hassen v. Noem*, Case No. EP-26-CV-00048-DB, slip op. at 3 (W.D. Tex. Feb. 9, 2026) ("Because the Government released Petitioner and permitted him to live in the United States for over a year, they cannot revoke that liberty without an individualized determination of the need to do so."); *see also Pinchi v. Noem*, 792 F. Supp. 3d 1015, 1025, 1032–33 (N.D. Cal. 2025) (collecting cases); *Tesara v. Wamsley*, No. C25-1723-KKE-TLF, 2025 WL 3288295, at *4 (W.D. Wash. Nov. 25, 2025) (holding that mandatory detention under § 1225(b), without consideration of noncitizens' deep financial, community, and familial ties, raises serious constitutional concerns) (citing *Salgado v. Mattos*, No. 2:25-cv-01872-RJB-EJY, 2025 WL 3205356, at *20 (D. Nev. Nov. 17, 2025)); *Arias v. Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at *4 (S.D. Cal. Nov. 25, 2025) (explaining that where re-detention violates due process, the choice between Sections 1225 and 1226 is not before the court because detention is improper regardless of which statute applies).

68. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319, 334–35 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.*

69. Under this balancing framework, Petitioner's due process rights are violated by her summary re-detention.

70. First, Petitioner has a significant private interest at stake—the right to be free from physical confinement—that is weighty in the extreme. *Zadvydas*, 533 U.S. at 690; *Hamdi*, 542 U.S. at 529 (noting this interest is “the most elemental of liberty interests”). Petitioner's wrongful confinement directly attacks this interest. Petitioner's liberty interest is particularly acute.

71. Petitioner was affirmatively paroled into the United States by Respondents. Respondents placed conditions on Petitioner's release, and with those conditions in place, determined that Petitioner did not pose any risk of harm to the public and was not a flight risk. Those circumstances have not changed. Since the time of her release, she has lived in the United States for over two years—she moved to Minnesota, was granted employment authorization, obtained employment, and has established a community. Petitioner is the primary caregiver for her two minor children, both of whom are United States citizens, and her 78-year old mother, who has a valid Green Card. Under these circumstances, Petitioner

plainly possesses a constitutionally protected interest in remaining free from arbitrary confinement especially where, as here, Respondents have provided no justification for her confinement.

72. Second, the risk of erroneous deprivation is extraordinarily high. Petitioner was re-detained without notice and without justification. The only rationale provided for her detention was inaccurate, and she was transferred to Texas without any ability to consult or meet with her counsel. Respondents did not have a warrant to arrest Petitioner.

73. Petitioner poses no danger to the community, and she is not a flight risk. More than anything, Petitioner wants to continue to provide care for her two minor children, who have mental health issues, and to care for her mother, who has medical and dental issues. Courts have recognized that such arbitrary detention regimes create an intolerable risk that people who pose no danger and no flight risk will be needlessly incarcerated. *See Tesara*, 2025 WL 3288295, at *4; *Pinchi*, 792 F. Supp. 3d at 1032–33.

74. Third, Respondents' interest in continued civil detention is minimal. Petitioner is already in removal proceedings, subject to the Immigration Court's jurisdiction, and fully available for supervision through less restrictive means. Respondents previously concluded that Petitioner could safely remain at liberty. Petitioner's U visa application remains pending, as does her motion to administratively close her removal proceedings. No facts have changed and Respondents have presented no justification for Petitioner's detention. Re-detaining Petitioner without individualized justification does not meaningfully advance any legitimate governmental objective; it merely imposes confinement for confinement's sake.

75. Accordingly, even assuming *arguendo* that Section 1225 governs¹, Petitioner's continued detention without individualized process violates the Due Process Clause. Mandatory detention cannot be wielded as a blunt instrument to extinguish liberty where the Constitution demands reasoned, person-specific justification.

76. Petitioner's detention also violates her right to due process because it does not further the two legitimate purposes for immigration detention. *Zadvydas*, 533 U.S. at 690 (finding that immigration detention is justified in two scenarios: (1) ensuring a noncitizen's appearance during removal proceedings and (2) preventing danger to the community).

77. Respondents can present no justification for Petitioner's detention on these bases. Petitioner poses no flight risk—prior to her detention, Petitioner had an established life in Minnesota, appeared at all scheduled immigration hearings. There is no legitimate purpose for her immigration detention.

78. Moreover, Petitioner's detention is punitive because it bears no “reasonable relation” to any legitimate government purpose. *Id.* at 690 (finding immigration detention is civil and thus ostensibly “nonpunitive in purpose and effect”).

¹ The holding in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026) regarding the application of Section 1225 was purely statutory, did not address the constitutional claims raised in the habeas petitions before it, and does not impact Petitioner's constitutional claims. *See, e.g., Hassen v. Noem*, Case No. EP-26-CV-00048-DB, slip op. at 4 n. 1 (W.D. Tex. Feb. 9, 2026) (“*Buenrostro-Mendez* does not change this case's outcome on procedural due process grounds.”).

79. Due process demands, at a minimum, a lawful basis for detaining and continuing to detain any person. Because Respondents have no basis to continue to detain Petitioner, her continued detention violates the Fifth Amendment, and she should be released.

COUNT TWO

Fifth Amendment Substantive Due Process

Petitioner's Ongoing Detention Violates Her Fifth Amendment Rights to Substantive Due Process

80. Petitioner realleges and incorporates by reference each and every allegation contained above.

81. To comply with the Due Process Clause, detention must always bear “some reasonable relation to the purpose for which the individual was committed.” *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018).

82. Petitioner's detention violates her substantive right to due process because it does not further the two legitimate purposes for immigration detention. *Zadvydas*, 533 U.S. at 690.

83. The only legitimate purposes, consistent with due process, for federal civil immigration detention is to prevent flight risk and ensure the detained person's attendance for a legal hearing adjudicating their status or potential removal, or to otherwise ensure the safety of the community. *Id.* at 690–91 (finding that immigration detention is justified in two scenarios: (1) ensuring a noncitizen's appearance during removal proceedings and (2) preventing danger to the community).

84. Here, there is no legitimate purpose for Petitioner's detention. First, Petitioner poses no flight risk because there is no reason to believe that Petitioner would not attend immigration check-ins or proceedings. She has always done so. Petitioner has reliably complied with all required check-ins. Petitioner has made a life in Minnesota, living and working there with authorization for more than a year. Second, Petitioner poses no safety threat to the community.

85. Petitioner's continued detention is unrelated to the purposes justifying it as a constitutional matter, and therefore contravenes the fundamental Due Process protections in the Fifth Amendment of the Constitution and is causing Petitioner substantial and irreparable harm.

COUNT THREE
Fourth Amendment

*Respondents Arrested Petitioner and Continue to Detain Her without a Valid Legal Basis
in Violation of Petitioner's Fourth Amendment Rights*

86. Petitioner realleges and incorporates by reference each and every allegation contained above.

87. An immigration officer's authority to make a warrantless arrest of a noncitizen is limited. 8 U.S.C. § 1357(a); *Arizona v. United States*, 567 U.S. 387, 408 (2012). An immigration officer may only make a warrantless arrest when the officer “has reason to believe that the individual ‘is in the United States in violation of [the immigration laws]’ and ‘is likely to escape before a warrant can be obtained for his arrest.’” *Ramirez Ovando v. Noem*, --- F. Supp. 3d ---, 2025 WL 3293467, at *2 (D. Colo. Nov. 25, 2025)

(citing 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2)(ii)). “[R]eason to believe” is “the equivalent of the constitutional requirement of probable cause.” *Id.* (collecting cases).

88. “The Fourth Amendment requires that immigration stops must be based on reasonable suspicion of illegal presence, stops must be brief, arrests must be based on probable cause, and officers must not employ excessive force.” *Trump v. Illinois*, 146 S.Ct. 432, 436 n. 4 (2025) (Kavanaugh, J., concurring). “Moreover, the officers must not make interior immigration stops or arrests based on race or ethnicity.” *Id.*

89. Petitioner’s detention violates her Fourth Amendment rights because the officers arresting her had no reasonable suspicion of illegal presence or probable cause for her arrest at the time.

90. An arrest in violation of the Fourth Amendment is grounds for habeas relief. *See Garrison G., v. Bondi, et al.*, No. 26-CV-172 (JMB/DJF), 2026 WL 157677, at *4 (D. Minn. Jan. 17, 2026).

91. Because Petitioner’s arrest and detention was made in violation of her Fourth Amendment rights, she must be released immediately.

COUNT FOUR

Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B), & (D)

Detaining Petitioner Pursuant to an Unlawful Interpretation of 8 U.S.C. § 1225 violates the Administrative Procedure Act

92. Petitioner realleges and incorporates by reference each and every allegation contained above.

93. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

94. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

95. Respondents’ detention of Petitioner while she is lawfully admitted and properly filed her application for a U Visa is contrary to the agency’s constitutional power under the Fifth Amendment’s Due Process Clause, as explained above.

96. Respondents’ detention of Petitioners was also not in accordance with the INA and implementing regulations governing detention insofar as none of the statutes that authorize Respondents to detain non-citizens are implicated by the facts and circumstances of Petitioner’s case.

97. An agency decision that “runs counter to the evidence before the agency” is arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983). Respondents’ decision to detain Petitioner ran counter to the evidence before the agency that Petitioner was a lawfully admitted person who had timely applied for a U Visa.

98. Accordingly, Petitioner’s detention should be held unlawful and set aside because it was (1) arbitrary, capricious, and not otherwise in accordance with law, *see* 5 U.S.C. § 706(2)(A); (2) contrary to the agency’s constitutional authority, *see id.*

§ 706(2)(B); and (3) not in accordance with the INA and implementing regulations, *see id.* § 706(2)(D).

COUNT FIVE

Immigration and Nationality Act, 8 U.S.C. § 1225(b)

Petitioner's Ongoing Detention Pursuant to 8 U.S.C. § 1225(b) is Unlawful because Petitioner is not Seeking Admission and therefore cannot be held under that Authority

99. Petitioners reallege and incorporate by reference each and every allegation contained above.

100. Respondents violate the Immigration and Nationality Act by attempting to apply mandatory detention through 8 U.S.C. § 1225(b), to Petitioner.²

101. Section 1225 governs the threshold act of inspection—what happens at the border before a non-citizen is permitted to enter. Section 1226 governs custody *inside* the United States, after entry has occurred and removal proceedings are underway.

102. Petitioner was detained in December 2023 by CBP after which time she was paroled into the United States, and has lived in the country for over two years. Under these circumstances, any re-detention is governed by Section 1226, not Section 1225.

103. Respondents' theory converts the meaning of "arriving alien" from a description of a moment in time to some form of a permanent legal identity. The INA does

² The holding in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026) did not concern an individual who had been paroled into the United States, like the Petitioner here, but instead concerned non-paroled "applicants for admission". *See id.* The Fifth Circuit expressly noted that parole is a distinct statutory mechanism not before the court. *See id.* at 5 n.3. Nothing in the majority's statutory analysis addresses how section 1225(b)(2)(A) applies, if at all, to individuals, like the Petitioner here, whom the government has already inspected and affirmatively paroled into the country.

not permit that transformation. “Arriving” is an event, not a lifelong condition. Once DHS exercised its discretion to parole Petitioner into the United States, the border-processing function of Section 1225 was complete. There is no statutory mechanism for “un-arriving” a person who has already crossed the threshold and entered the country.

104. Parol is not a hollow gesture. It is a substantive statutory determination that the individual may enter and remain in the United States and that the person presents neither a security risk nor a risk of flight. Those findings are fundamentally incompatible with the premise of mandatory detention. Respondents cannot conclude that Petitioner is appropriate for parole and later assert that Congress commands her automatic detention as if she were still standing at the border. Such an approach would render parole under Section 1182(d)(5)(A) meaningless—granting presence one day while reserving the power to resurrect border detention at any time, long after entry. That result is incompatible with the INA’s design, which contemplates a sequence: border processing under Section 1225; discretionary parole under Section 1182(d)(5)(A); and, once inside the country, custody governed by Section 1226 during Section 240 proceedings.

105. Petitioner is no longer “arriving” in any ordinary or statutory sense, Section 1225(b)’s mandatory detention regime has no application here. Respondents’ attempt to impose it is ultra vires and violates the Immigration and Nationality Act.

106. Because Petitioner’s continued detention violates her statutory rights, this Habeas petition should be granted and Petitioner immediately released.

REMEDY

107. An available remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be released.

108. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 687, 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Detention here serves no statutory purpose, and there is no indication that Petitioner's detention was based on any facts that might indicate that Petitioner should be in custody for some reason.

109. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court:

1. Assume jurisdiction over this matter;
2. Order Respondents to release Petitioner immediately during the pendency of these proceedings so that she does not have to await for this relief while in custody;
2. In the alternative, immediately enjoin and restrain Respondents from transferring or removing Petitioner from the jurisdiction of this District pending these proceedings;
3. Issue an Order to Show Cause requiring Respondents to show cause as to why Petitioner should not be released within three days;

3. Declare that Petitioner's detention violates the Fourth Amendment, the Fifth Amendment, the Administrative Procedure Act § 706(2)(A), (B), & (D), and 8 U.S.C. § 1225(b);
4. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner;
5. Award Petitioner reasonable attorneys' fees and costs under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, *see Daley v. Ceja*, 158 F.4th 1152, 1162 (10th Cir. 2025), and on any other basis justified under law; and
6. Grant any further relief this Court deems just and proper.

Respectfully Submitted,

Dated: February 10, 2026

/s/ Robert Painter

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CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant, the undersigned certifies and states that the true and correct copies of this Petition for Writ of Habeas Corpus, with Exhibits (4 pages) will be served upon all counsels of record via the online CM/ECF system, on or before February 10, 2026.

/s/ Robert Painter
Robert Painter
TX Bar No.24150717
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Texas Immigration Law Council