UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Angela Elizabeth Hernandez de Perez, **A[redacted]** **Petitioner,** **v.**	**Civil Action No.: 1:26-cv-594**
Pamela Jo Bondi, **Attorney General of the United States of America,**	**PETITION FOR WRIT OF HABEAS CORPUS**
Kristi Noem, **Secretary of the Department of Homeland Security, (DHS),**	
Todd Lyons, **Acting Director,** **United States Immigration and Customs Enforcement (ICE),**	
Nikita Baker, **Field Office Director,** **Baltimore Field Office,** **U.S. Immigration and Customs Enforcement (ICE),** **Respondents.**	

INTRODUCTION

1. Petitioner, Ms. Hernandez de Perez, is in the physical custody of Respondents at the Baltimore Enforcement and Removal Operations holding room in Baltimore, Maryland. *See* Exhibit A (screenshot of Immigrations and Customs Enforcement Online Detainee Locator, taken by counsel prior to filing). She is currently in the physical custody of Respondents at the Baltimore Enforcement and Removal Operations holding room in Baltimore, Maryland.

2. On October 26, 2023, Customs and Border Patrol ("CBP") apprehended Ms. Hernandez de Perez within the United States pursuant to a warrant for her arrest shortly after her entry into the country. *See* Exhibit B (Form I-200, Warrant for Arrest of Alien).

3. On October 28, 2023, Respondents released Petitioner on her own recognizance on the condition that she attend an in-person check in with a deportation officer in Baltimore, Maryland. *See* Exhibit C (Form I-220A, Order of Release on Recognizance); Exhibit D (Form I-286, Notice of Custody Determination). In the subsequent years since her release, Petitioner fulfilled her conditions of release, reunited with family members residing in the community, attended removal proceedings, raised children, received employment authorization, and built her life in the United States. She has no criminal record in the United States or any other country.

4. Despite Petitioner's compliance while released, including attending her scheduled check-ins with Immigration and Customs Enforcement ("ICE"), she was abruptly and unlawfully re-detained by the Department of Homeland Security ("DHS") at a scheduled check-in on February 10, 2026.

5. Prior to re-detaining Petitioner, Respondents did not provide any written notice explaining the basis for the revocation of her release. Likewise, Respondents did not assess whether Petitioner presented a flight risk or danger to the community prior to her re-arrest. Nor did Respondents provide a hearing before a neutral decisionmaker, where ICE was required to justify the basis for re-detention or to explain why Petitioner is now a flight risk or danger to the community.

6. As many Courts have recently held, due process demands a hearing *prior* to the government's decision to terminate a person's liberty. *See, e.g., E.A.T.-B. v. Wamsley*, No. C:25-1192-KKE, 2025 WL 2402130, at *2-6 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*,

No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2-4 (W.D. Wash. Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7-9 (W.D. Wash. Oct. 7 2025.

7. By failing to provide such a hearing, Respondents have violated Petitioners' constitutional rights to due process.

8. Notably, Respondents charged Petitioner as removable due to, *inter alia*, having entered the United States without admission or inspection; they did not charge her as an arriving alien, but as a noncitizen present in the United States who has not been admitted or paroled. *See* Exhibit E (Notice to Appear); *see also* 8 U.S.C. § 1182(a)(6)(A)(i).

9. Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

10. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

11. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who

previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

12. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

13. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgement). On December 18, 2025, the *Maldonado Bautista* court entered final judgment in the case and declared that *Yajure Hurtado* "is no longer controlling" for members of the Bond Eligible Class and, in turn, that Immigration Judges have jurisdiction to hear custody redetermination hearings for all class members. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *12 (C.D. Cal. Dec. 18, 2025).

14. Nonetheless, some Immigration Judges within the Executive Office for Immigration Review and its subagency, the Office of the Chief Immigration Judge, and the Department of Homeland Security, have still refused to abide by the declaratory relief and have unlawfully denied Petitioner the opportunity to be released on bond, claiming that they are still

bound by *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), as the *Maldonado Bautista* court declined to vacate the case in its entirety.

15. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be immediately released from detention pursuant to the same conditions to which she was subject immediately prior to her re-detention. *See E.A.T.-B.*, 2025 WL 2402130, at *6 (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty"). Additionally, if the Court declines to order release or conduct its own hearing, it should order a bond hearing before an immigration judge with explicit procedural safeguards—such as ordering Respondents to carry the burden of proving by clear and convincing evidence that changed circumstances exist, as compared to the 2023 decision to release Petitioner on her own recognizance, that now show that Petitioner is a danger to the community or a flight risk. Petitioner also asks this Court to retain jurisdiction to review the determination to ensure compliance with due process. Finally, Petitioner asks this Court to order Respondents to return Petitioner's property to her upon release, including any government-issued property such as her employment authorization card.

JURISDICTION

16. Petitioner is in the physical custody of Respondents. Petitioner is detained at Baltimore holding room in Baltimore, Maryland.

17. 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).

18. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and 28 U.S.C. § 1261, the All Writs Act.

VENUE

19. Venue lies in the United States District Court for the District of Maryland, the judicial district in which Petitioner is currently detained. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973). (finding proper venue lies in the judicial district in which Petitioner is currently detained).

20. 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 District of Maryland. Respondent Nikita Baker has her principal place of business in Baltimore, Maryland.

REQUIREMENTS OF 28 U.S.C. § 2243

21. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

22. 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. Immigr. Nationalities Svc.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

23. Petitioner, Ms. Hernandez de Perez, is alleged to be a citizen of El Salvador who has been in immigration detention since approximately February 10, 2026. Respondents did not

set bond, and Petitioner is unable to obtain review of her custody by an Immigration Judge (IJ), pursuant to the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

24. Respondent Pamela Jo 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 (EOIR)—and the immigration court system it operates—is a component agency.

25. 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.

26. Respondent Todd Lyons is the Acting Director of the United States Immigration and Customs Enforcement, which is the agency responsible for Petitioner's detention. Mr. Lyons has custodial authority over Petitioner and is sued in his official capacity.

27. Respondent Nikita Baker is the Field Office Director of the Baltimore Field Office of ICE's Enforcement and Removal Operations division and is the federal official with supervisory authority over the Baltimore Holding Room, a temporary detention room owned and operated by ICE. As such, Ms. Baker is Petitioner's immediate legal custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity.

LEGAL FRAMEWORK

Immigration Detention Framework

28. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

29. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally

entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* § 1226(c).

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

31. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

32. This case concerns the detention provides at §§ 1226(a) and 1225(b)(2).

33. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996., Pub. L. No. 104–208, Div. C. §§ 302–03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

34. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention of Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

35. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were

entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

36. On May 15, 2025, the BIA issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) finding that mandatory detention under § 1225(b)(2)(A) applies to individuals who are arrested upon entry, paroled from detention and charged as inadmissible to the United States as noncitizens present without being admitted or paroled and placed in § 1229a removal proceedings, and subsequently rearrested by ICE.

37. On July 8, 2025, ICE, "in coordination with" the Department of Justice ("DOJ"), expanded this novel interpretation with a new policy, therein rejecting well-established understanding of the statutory framework and reversed decades of practice.

38. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention pursuant to § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

39. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the BIA held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

[1] *Available at https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.*

40. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado* and *Matter of Q. Li*, which adopt the same reading of the statutes as ICE.

41. Even before ICE or the BIA introduced these nationwide policies, IJs at the Tacoma, Washington Immigration Court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 1239 (W.D. Wash. 2025).

42. Subsequently, this Court—as well as numerous courts nationwide—has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Bautista Villanueva v. Bondi*, No. 25-CV-4152-ABA, 2026 WL 100595 (D. Md. Jan. 14, 2026); *Velasquez v. Noem*, No. 25-CV-3215-GLR, 2025 WL 3003684, at *4-7 (D. Md. Oct. 27, 2025); *Maldonado de Leon v. Baker*, No. 25-CV-3084-TDC, 2025 WL 2968042, at *8 (D. Md. Oct. 21, 2025); *Quispe-Ardiles v. Noem*, No. 1:25-cv-01382-MSN-WEF, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *Luna Quispe v. Crawford*, No. 1:25-cv-1471-AJT-LRV, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Roca Ramos v. Bondi*, 1:25-cv-2293-MSN-LRV (E.D. Va. Dec. 16, 2025).

43. On November 20, 2025, the District Court for the Central District of California granted declaratory relief to the petitioners of *Maldonado Bautista* by declaring "unlawful" the DHS's new detention policy and the BIA's matching conclusion in *Matter of Yajure Hurtado*. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861 (Nov. 20,

2025). The *Maldonado Bautista* court granted the Petitioners' motion for partial summary judgment and found "the statutory provisions to be unambiguous and consistent with only Petitioners' interpretation," therein rejecting the new attempt to apply INA § 235(b)(2)(A) to noncitizens like the Petitioner in the instant case. *Id.*

44. On December 18, 2025, the *Maldonado Bautista* court issued further clarification. *See Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal., Dec. 18, 2025). In her order, the judge stated:

> Nevertheless, the Court observes that the core holding of *Yajure Hurtado* cannot be squared with the MSJ Order. In spite of *Yajure Hurtado*, this Court determined that Petitioners and those similarly situated are not 'applicants for admission,' and therefore not subject to mandatory detention under § 1225. Although the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, ***Yajure Hurtado is no longer controlling; the legal conclusion underlying the decision is no longer tenable***.

Id. at *6 (emphasis added). Following extensive analysis, the court then deemed it proper to enter "final judgment in this action as to Counts I, II, and III of the Amended Class Complaint." *Id.*

45. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[noncitizen]."

46. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). *Id.* As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates

'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 770 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. V. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

47. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

48. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who are otherwise actively seeking admission to the United States. 8 U.S.C. § 1225(b). The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

49. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing within the United States at the time they were apprehended.

Due Process Principles

50. Additionally, due process requires that immigration detention "'bear[] a reasonable relation to the purpose for which the individual was committed.'" *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)). Specifically, immigration detention must be reasonably related to the government's goals of preventing flight and protecting the community from harm and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91. Chief among these procedural

protections is "the guarantee of an impartial and disinterested tribunal," which the Due Process Clause requires "in both civil and criminal cases." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).

51. Furthermore, given that habeas corpus "is, at its core, an equitable remedy," this Court has authority to order a remedy that fully addresses the statutory and constitutional violations in this case. *Schlup v. Delo*, 513 U.S. 298, 319 (1995); *Carafas v. LaVallee*, 392 U.S. 234, 238 (1968). "In recent months, courts across the country have ordered the release of detainees in similar situations." *Moctezuma v. Henkey*, No. 1:25-cv-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing). (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025); *J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025); *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-14 (W.D. Tex. Oct. 2, 2025) ("Without a legitimate interest in her detention, immediate release appropriately remedies Respondents' violation of [Petitioner's] due process rights through her continued detention.").

52. Furthermore, if the record establishes "that the immigration judge to whom [Petitioner's] case is to be referred will fail to apply the correct legal standards for bond hearings under § 1226," the proper remedy is immediate release, not a bond hearing. *See Bautista Villanueva*, 2026 WL 100595, at *2 (quoting *M.K. v. Arteta*, No. 25-CV_9918 (LAK), 2025 WL 3720779, at *9 (S.D.N.Y. Dec. 23, 2025) ("Where respondents have offered no reason for why

M.K.'s detention under Section 236 or any other statute would be lawful, the proper remedy is immediate release, not ordering a bond hearing.")).

FACTS

53. Petitioner, Ms. Hernandez de Perez, fled her home country of El Salvador seeking safety and stability in the United States. She entered the United States in October 2023 and was promptly arrested by CBP, pursuant to a warrant stating that her arrest occurred under 8 U.S.C. § 1226(a). *See* Exhibit B.

54. On October 28, 2023, DHS released Petitioner on her own recognizance, requiring her to attend regular check-ins with ICE in Baltimore, Maryland. *See* Exhibits C, D.

55. That same day, DHS served Petitioner with a Notice to Appear, categorizing her as a noncitizen present in the United States who has not been admitted or paroled, and charging her as removable pursuant to 8 U.S.C. § 1182(a)(6)(A)(i).

56. Upon release, Petitioner relocated to Maryland, where she lives with her seventeen-year-old daughter.

57. Petitioner complied with all ICE's requirements related to her release.

58. Petitioner timely filed for asylum, received employment authorization pursuant to that pending application, and is currently employed at a nursing home in Montgomery County where she cares for the elderly.

59. Petitioner is currently scheduled for an Individual Hearing before an immigration judge on March 3, 2027 at the Hyattsville Immigration Court.

60. Petitioner is an active member of her church.

61. Petitioner is the daughter of two Lawful Permanent Residents who rely on her for emotional support.

62. Petitioner has no criminal history in the United States.

63. Petitioner lived at a fixed address and had a stable, supportive community for two years before she was detained and will return to the same address upon release.

64. Petitioner is thus neither a flight risk nor a danger to the community.

65. Despite these facts, Respondents arrested Petitioner when she appeared for her scheduled check-in on February 10, 2026.

66. Pursuant to ICE's current policies, they now consider Petitioner to be subject to mandatory detention and have declined to release her from custody—despite arresting and releasing her in 2023 under § 1226(a) and charging her as a noncitizen present in the United States and not as an arriving alien.

67. Pursuant to *Matter of Yajure Hurtado*, the IJ is unable to consider Petitioner's bond request.

68. As a result, Petitioner remains in detention. Without relief from this Court, she faces the prospect of months, or even years, in immigration custody, separated from her family and community.

69. Petitioner highlights that the immigration court system has seemingly been transformed into a body that is incapable of upholding Petitioner's statutory and constitutional rights.

70. As of September 26, 2025, the administration terminated 128 immigration judges.[2] Former New York Immigration Judge David K.S. Kim explained the targeting criteria: "I do not know the exact reason for my termination, but most of those dismissed, including myself, were

[2] Trump Administration Continues Firing Immigration Judges -- IFPTE responds, IFPTE (Sept. 26, 2025), https://www.ifpte.org/news/trump-administration-continues-firing-immigration-judges-ifpte-respondsnbsp.

judges with high asylum approval rates."[3] The firings and pressure to deny cases have created a pervasive climate of fear designed to ensure compliance.[4] There is also a common theme involving the inevitable compromise of judicial independence when self-preservation requires favoring the government.[5]

71. To replace fired judges, the Department of Justice launched recruitment for what it explicitly marketed as "deportation judges." DHS—a party in immigration proceedings before EOIR—promoted these openings on social media with enforcement-focused language: "Bring the hammer down on criminal illegal aliens" and "Defend your communities, your culture, your very way of life."[6] The DOJ has authorized up to 600 military lawyers to serve as temporary immigration judges for a renewable term not to exceed six months, while simultaneously eliminating requirements to serve as a temporary immigration judge.[7] Corey Lewandowski, an adviser to DHS Secretary Noem, responded to the announcement by posting: "I see more

[3] Woo-Sun Lim, Former judge highlights legal failures in U.S. worker detentions, The Dong-A Ilbo (Sept. 20, 2025), https://www.donga.com/en/article/all/20250920/5859412/1.

[4] Former IJ David C. Koelsch described it as "an atmosphere of paranoia and fear, which is exactly what they want." Marco Poggio, Judges See an Immigration Court Gutted from Inside, Law360 (Oct. 31, 2025), https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside. Former Annandale IJ Anam Petit observed: "There's a climate of fear . . . Judges feel like, if they step a toe out of line right now . . . or they're one [asylum] grant away from being fired because of the arbitrary nature of the firings." Eric Katz, 'Climate of Fear': Immigration Judges Say Functioning of Their Court System Is in Jeopardy Due to Trump's Firings, Gov't Executive (Nov. 14, 2025), https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-system-jeopardy-due-trumps-firings/409544/. Former New York IJ Carmen Maria Rey Caldas similarly described judges working "under 'constant threat' of getting fired if they don't follow certain rules from leadership." Isabela Dias, "Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts, Mother Jones (Oct. 9, 2025), https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/.

[5] Former San Francisco IJ Elizabeth Young explained: "I've talked to many of [the judges still serving], and they're like, 'When I go into court, I am concerned about applying the law, but I'm also concerned that I should deny more, because if I don't, then I'll get fired." Marco Poggio, Judges See an Immigration Court Gutted from Inside, Law360 (Oct. 31, 2025), https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside. Former Boston IJ Sarah Cade reached her breaking point: "I felt I might have to compromise my ethics and might be put in a place where I felt like I was going to be asked to violate due process. So I left and I went to private practice." *Id.*

[6] dhsgov, Instagram (Nov. 21, 2025), https://www.instagram.com/p/DRVT8DmCQKD/?hl=en.

[7] Designation of Temporary Immigration Judges, 90 Fed. Reg. 41,883 (Aug. 28, 2025).

deportations of illegal immigrants in the near future"[8]—an explicit acknowledgement of the mass deportation policy objective underlying these appointments and the erosion of institutional boundaries between DOJ and DHS. In December, news outlets reported that a U.S. army lawyer who was detailed as an immigration judge was fired just one month into his new role, likely for granting more than half of the cases on which he ruled.[9] Just last week, news outlets reported that the immigration judges hired to fill the gaps from those fired in 2025 were explicitly trained to grant cases "only in rare circumstances," instead of being instructed in immigration law and encouraged to use their training and judicial discretion.[10]

72. Considering the current climate within the immigration courts, no adjudicator can remain impartial when faced with the choice between upholding due process and keeping their position. Any immigration judge assigned to Petitioner's bond hearing now operates under the understanding that granting bond may cost them their livelihood.

CLAIMS FOR RELIEF

COUNT 1

Violation of the INA

73. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

74. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As

---

[8] Corey R. Lewandowski (@CLewandowski_), X (Sept. 2, 2025, 1:47 PM), https://x.com/clewandowski_/status/1962950546652070269.

[9] Associated Press, *US Army Lawyer Fired as Immigration Judge After Defying Trump Deportation Agenda*, The Guardian, (Dec. 19, 2025, 1:58 PM), https://www.theguardian.com/us-news/2025/dec/19/army-lawyer-fired-immigration-trump-deportation.

[10] Celine Castronuovo, *Trump Immigration Judges Pushed to Deny Asylum in Swift Training*, U.S. L. Wk. (Feb. 4, 2026, 9:45 AM), https://news.bloomberglaw.com/us-law-week/trump-immigration-judges-pushed-to-deny-asylum-in-swift-training.

relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

75. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention and violates the INA.

CLAIMS FOR RELIEF

COUNT 2

Violation of Due Process

76. Petitioner repeats, realleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

77. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraining—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

78. Petitioner has a fundamental interest in liberty and being free from official restraint.

79. The government's re-detention of Petitioner without a pre-deprivation bond redetermination hearing to explain any changed circumstances demonstrating that she now represents a flight risk or danger to others violates her right to due process.

80. The government's continued detention of Petitioner without a bond redetermination hearing to determine whether she represents a flight risk or danger to others violates her right to due process.

PRAYER FOR RELIEF

The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *see also Schlup v. Delo*, 513 U.S. 298, 319 (1995) ("[H]abeas corpus is, at its core, an equitable remedy."). This Court should order a remedy that fully addresses the statutory and constitutional violations in this case and is efficient to administer. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) ("[The habeas statute] does not limit the relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may be granted[.]"). Here, because ordering a 1226(a) bond hearing before EOIR—an adjudicatory body that is no longer unbiased—would not properly redress the statutory and constitutional violations present in this matter.

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Fourth Circuit while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Declare that Petitioner's detention is unlawful;

e. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner under the same Order of Release on Recognizance issued in 2023;

f. In the alternative, Petitioner requests a custody hearing before this Court. The habeas court can hold its own custody hearing and determine whether the government can prove by clear

and convincing evidence that Petitioner must remain in custody, or whether she may be released on recognizance.[11]

g. At a minimum, the Court should order that Petitioner be provided a 1226(a) bond hearing, *but with additional safeguards*. Specifically, the Court should order:

    a. A bond hearing where the government shall bear the burden of establishing by clear and convincing evidence that Petitioner's circumstances have changed since her October 28, 2023 release on recognizance, such that she now poses a danger or flight risk; this protection is necessary to "[reflect] the concern that '[b]ecause the alien's potential loss of liberty is so severe . . . [s]he should not have to share the risk of error equally.'" *See Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025).[12]

    b. Provide that the habeas court shall retain jurisdiction to review the immigration judge bond decision to ensure compliance with the court's order and due process.

    c. Prohibit ICE from invoking the automatic stay provisions under 8 C.F.R. § 1003.19(i)(2) because their application violates the procedural due process rights of noncitizens granted bond. *See Gutierrez v. Thompson*, No. 4:25-cv-4695, 2025

[11] *See e.g. L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D. Mass 2010) (granting petition and discussing at length habeas court's equitable power, which includes power to hold its own bail hearing); *see also Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court-ordered bond hearing was not individualized and did not comport with due process, and granting motion to enforce to hold the court's own bond determination); *Ramirez v. Watkins*, No. 10-cv-126, 2010 WL 6269226, at *19-20 (S.D. Tex. Nov. 3, 2010), rep. and rec not reached, (S.D. Tex. Dec. 8, 2010) (dismissing case as moot) (recommending the habeas court conduct its own bail inquiry, as it would be more efficient, ensure supervision over any compliance issues, and avoid further proceedings).

[12] The *Lopez Arevelo* Court also noted that "as of 2020, the 'vast majority'—an 'overwhelming consensus'—of courts granting immigration detainees' habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk; *Velasco Lopez*, 978 F.3d at 855 n.14 (citations omitted))

WL 3187521, at *8 (S.D. Tex. Nov. 14, 2025). *See also Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025).

h. Order Respondents to return all of Petitioner's property to her upon release, including any government-issued identification cards like her Employment Authorization Card;

i. Award Petitioner her costs of suit; and

j. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted this: February 11, 2026

/s/ Jennifer Molina
Molina Immigration Legal Services
7100 Guilford Drive, Ste 2039
Frederick, MD 21704
Phone: 410-941-9049
jmolina@wearemils.com
District of Maryland Bar ID: 30895
Attorney for Petitioner

Certification Pursuant to Local Standing Order 2025-01

I, Rebecca Swaintek-Green, hereby certify pursuant to Fed. R. Civ. P. 11, as follows:

(1) I understand the Petitioner to be presently detained in Maryland, based on (a) a review of the ICE Detainee Locator website; and (b) the fact that Petitioner recently called a family member from the ICE Baltimore Hold Room.

(2) Emergency relief is necessary, because Petitioner is at risk of unlawful removal from the United States; and

(3) This Court has subject-matter jurisdiction over the Petitioner pursuant to 28 U.S.C. § 2241, and no jurisdiction-stripping statute applies to prevent habeas corpus review of detention and unlawful removal.

/s/ Jennifer Molina
Molina Immigration Legal Services
7100 Guilford Drive, Ste 2039
Frederick, MD 21704
Phone: 410-941-9049
jmolina@wearemils.com
District of Maryland Bar ID: 30895
Attorney for Petitioner