

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

VANESA SOSA CHAVEZ

Petitioner,

v.

ROBERT GUADIAN, in his official capacity as the Field Office Director of the U.S. Immigration and Customs Enforcement Washington Field Office; JEFFREY DILLMAN, in his official capacity as the Warden of Riverside Regional Jail; TODD LYONS, in his official capacity as Acting Director of Immigration Customs and Enforcement; DAREN MARGOLIN, in his official capacity as Acting Director of the Executive Office of Immigration Review; KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Case No. 26-444

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. This petition arises out of the unlawful detention of Petitioner Vanesa Sosa Chavez, a 20-year-old Virginia resident who has lived in the United States for nearly 5 years. Ms. Sosa Chavez has Special Immigrant Juvenile Status (SIJS) and a grant of deferred action.
2. On February 13, 2026, law enforcement agents detained Ms. Sosa Chavez and removed her from the Loudoun County Adult Detention Facility.
3. Ms. Sosa Chavez is in physical custody of Respondents at the Riverside Regional Jail in North Prince George, Virginia.

4. She faces indefinite detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have erroneously concluded that Ms. Sosa Chavez is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

5. This petition concerns whether Ms. Sosa Chavez is subject to the mandatory detention provisions in 8 U.S.C. § 1225(b)(2) or the discretionary detention provisions in 8 U.S.C. § 1226(a), a question this Court has now conclusively answered.

6. The government's new interpretation of section 1225—which upends decades of settled law and practice—is contrary to the plain text of the Immigration and Nationality Act (INA), U.S. Supreme Court precedent, the Fifth Amendment of the U.S. Constitution. Unsurprisingly, the government's current stance on section 1225 has been rejected by this Court dozens of times, and by numerous federal district courts around the country.

7. Accordingly, Ms. Sosa Chavez seeks a writ of habeas corpus requiring that she be released immediately without a subsequent bond hearing, or in the alternative, that she be immediately released and later provided with a bond hearing as required by the INA.

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. §§ 2201–2202 (declaratory judgment).

9. Federal district courts have jurisdiction to hear habeas petitions by noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Quispe-Ardiles v. Noem*, 2025 WL 2783800, at *3 (E.D. Va. Sept. 30, 2025).

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1346, 2201, and 2241, and Article I, § 9, cl. 2 of the United States Constitution. Defendants are not entitled to sovereign immunity from this suit. 5 U.S.C. §§ 702, 706; *see also Strickland v. United*

States, 32 F.4th 311, 363 (4th Cir. 2022) (citing *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 689 (1949)).

11. The Court has authority to enter a declaratory judgment and provide temporary, preliminary, and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. § 2201 *et seq.*, as well as 28 U.S.C. § 1651, and this Court's inherent equitable powers.

12. Venue is proper in this District under 28 U.S.C. §§ 1391(b), 1391(e)(1), and 2241 because at the time of filing Ms. Sosa Chavez was detained within this district; a substantial part of the events and omissions giving rise to the claim occurred in this district; the Riverside Regional Jail, along with Defendant Jeffrey Dillman, who supervises that facility; and the other Respondents are officers of the United States acting in their official capacity. *See Flores v. Noem*, 2025 WL 4038022, at *1 (E.D. Va. Oct. 29, 2025) (having jurisdiction for a noncitizen detainee at Riverside Regional Jail).

PARTIES

13. Petitioner Vanesa Sosa Chavez is a 20-year-old Virginia resident detained by U.S. Immigration and Customs Enforcement (ICE) at the Riverside Regional Jail in North Prince George, Virginia.

14. Respondent Robert Guadian is the Field Office Director for the ICE Washington Field Office and was an immediate custodian of Ms. Sosa Chavez.

15. Respondent Jeffrey Dillman is the Warden of the Riverside Regional Jail and an immediate custodian of Ms. Sosa Chavez.

16. Respondent Todd Lyons is the Acting Director of ICE.

17. Respondent Colonel Daren Margolin is the Acting Director of Executive Office of Immigration Review (EOIR) and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals (BIA), including bond proceedings.

18. Respondent Kristi Noem is the U.S. Secretary of Homeland Security and oversees the Department of Homeland Security (DHS).

19. Respondent Pamela Bondi is the Attorney General of the United States and oversees the Department of Justice, including EOIR, the BIA, and the immigration courts.

20. All respondents are named in their official capacities.

LEGAL FRAMEWORK

A. The Writ of Habeas Corpus Reaches Ms. Sosa Chavez, a Noncitizen in Immigration Detention

21. “A deportation proceeding is a purely civil action to determine eligibility to remain in this country, not to punish an unlawful entry[.]” *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984). Immigration proceedings “are civil, not criminal, and ... nonpunitive in purpose and effect.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

22. The INA creates a statutory framework outlining procedures for the removal of noncitizens from the United States. Those procedures include specific protections such as providing noncitizens with notice of removal proceedings, an opportunity to be heard in immigration court before an immigration judge who can order removal, appellate review before the Board of Immigration Appeals, and the ability to petition a federal circuit court for review. *See* 8 U.S.C. §§ 1101(a)(47)(B), 1229(a), 1229a, 1252(a); 8 C.F.R. §§ 1240.10(f), 1240.11(c)(1)(i).

23. Federal courts may review habeas claims by noncitizens alleging violations of 8 U.S.C. § 1231(b)(2), which governs removal procedures. *See Jama v. Immigr. & Customs Enf't*, 543 U.S. 335, 338 (2005) (finding jurisdiction to adjudicate habeas corpus petition to challenge

country of removal). In fact, habeas is “regularly invoked on behalf of non-citizens.” *Luna Sanchez v. Bondi*, 2025 WL 3191922, at *2 (E.D. Va. Nov. 14, 2025) (quoting *Quispe-Ardiles*, 2025 WL 2783800, at *3). The government has repeatedly argued to this Court that sections 1252(b)(9) and 1252(g) of the INA strip this Court of jurisdiction to hear a non-citizen’s challenge to her detention. *See, e.g., Hasan v. Crawford*, 800 F. Supp. 3d 641, 649–50 (E.D. Va. 2025). And the Court has repeatedly rejected that argument. *See, e.g., id.; Quispe-Ardiles*, 2025 WL 2783800, at *3; *Luna Quispe v. Crawford*, 2025 WL 2783799, at *2–3 (E.D. Va. Sept. 29, 2025); *Luna Sanchez*, 2025 WL 3191922, at *2–3.

B. Ms. Sosa Chavez Has Additional Protections Against Detention and Removal Due to Her Special Immigrant Juvenile Status

24. Special Immigrant Juvenile Status (SIJS) is an immigration program established by Congress in 1990 “to protect abused, neglected or abandoned children who ... illegally entered the United States.” *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 655-56 (E.D. Va. 2020) (quoting *Osorio-Martinez v. Attorney Gen. U.S. of Am.*, 893 F.3d 153, 163 (3d Cir. 2018)).

25. SIJS allows vulnerable immigrant children to remain in the country while they pursue lawful permanent resident status. 8 U.S.C. § 1255(h) (deeming SIJS youth “paroled” for adjustment); 8 U.S.C. § 1227(c) (waiving specified removal grounds for SIJS); *cf.* 8 U.S.C. § 1155; 8 C.F.R. § 205.2 (revocation permitted only with notice, reasons, and an opportunity to respond).

26. Once granted SIJS but before applying for a visa, noncitizens must wait for a visa to become available to them. 8 U.S.C. § 1255(h). There is an annual limit on the number of visas available to SIJS beneficiaries, 8 U.S.C. § 1153(b)(4), which has created a backlog of thousands of individuals with SIJS, Albinson Linares & Daniella Silva, Abused and abandoned immigrant youths sue Trump administration over deportation fears, NBC News (July 17, 2025) (detailing the

visa backlog “that can take years”).¹ These individuals—who have been granted SIJS—must wait years before receiving a visa, only “a hair’s breadth from being able to adjust their status.” *Osorio-Martinez*, 893 F.3d at 174.

27. To assist SIJS beneficiaries like Ms. Sosa Chevez in obtaining lawful permanent resident status, Congress removed barriers many noncitizens face in the immigration system. For example, SIJS grantees are “deemed ... to have been paroled into the United States” for the purposes of adjustment of status. 8 U.S.C. § 1255(h)(1). Congress also exempted those with SIJS from many grounds of inadmissibility and created waivers for other, non-exempted grounds. 8 U.S.C. § 1255(h)(2).

28. Since the inception of SIJS, Congress has amended the statute several times to “expand eligibility for [the] status and increase protections for vulnerable immigrant children.” *Perez v. Cuccinelli*, 949 F.3d 865, 878 (4th Cir. 2020).

29. Once a noncitizen is granted SIJS, they receive “significant benefits ... and certain protections against removal.” *Joshua M.*, 439 F. Supp. 3d at 657–58. These benefits include “a host of procedural rights designed to sustain [the noncitizen’s] relationship to the United States and to ensure they would not be stripped of SIJ status without due process.” *Id.* at 678.

30. While SIJS may be revoked, because the “status may constitute a protected liberty or property interest, [] it may be revoked only for what the Secretary of Homeland Security deems ‘good and sufficient cause.’” *Id.* at 679 (quoting 8 U.S.C. § 1155) (emphasis added).

31. Removing a noncitizen with SIJS from the United States would cause the individual to lose their SIJS and associated benefits. *Id.* For this reason, this Court has found that removing

¹ <https://tinyurl.com/3ptnn2cn>

noncitizens with SIJS “would cut against the plain language of the statutes.” *Id.* (staying removal of a noncitizen with SIJS).

32. Similarly, this Court has required additional procedural protections for detained noncitizens with SIJS. *See id.* at 682 (questioning whether ongoing detention for a noncitizen with SIJS violates the Due Process Clause); *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 921 (E.D. Va. 2024) (requiring the government to prove the necessity of a noncitizen with SIJS’s detention “by clear and convincing evidence”); *Campos-Flores v. Bondi*, 2025 WL 3461551, at *6 (E.D. Va. Dec. 2, 2025) (recognizing the due process rights bestowed through SIJS); *Sarmiento v. Perry*, 2026 WL 131917, at *10 (E.D. Va. Jan. 19, 2026) (granting the immediate release of a detained noncitizen with SIJS).

C. Ms. Sosa Chavez’s Detention is Governed by the Discretionary Detention Provisions in Section 1226 Because She Has Lived in the United States for Many Years as an SIJS Recipient

33. Under 8 U.S.C. § 1225(a), “an alien present in the United States who has not been admitted or who arrives in the United States ... shall be deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. § 1225(a)(1). An “applicant for admission” is an alien who is “seeking admission into the country,” *Jennings v. Rodriguez*, 583 U.S. 281, 290 (2018), that is, one not “already present in the United States,” *id.* at 303.

34. Section 1225(b) divides applicants for admission “into two categories: those covered § 1225(b)(1) and those covered by § 1225(b)(2).” *Hasan*, 800 F. Supp. 3d at 652 (citing *Jennings*, 582 U.S. at 287). Section 1225(b)(1), which is not applicable here, “applies to aliens ‘initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation,’” and “other aliens who receive[d] special designation by the Attorney General.” *Id.* Section 1225(b)(2) applies to all other applicants. *Id.* And under the statute, mandatory detention applies “in the case of [a noncitizen] who is an applicant for admission, if the examining

immigration officer determines that [a noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(a).

35. While section 1225(b) concerns aliens “seeking admission into the country,” a different provision, section 1226, “applies to aliens already present in the United States.” *Jennings*, 583 U.S. at 289, 303. Section 1226(a) therefore “sets forth the default rule for detaining and removing aliens ‘already present in the United States.’” *Hasan*, 800 F. Supp. 3d at 652 (quoting *Jennings*, 583 U.S. at 303).

36. Accordingly, under the INA, “[t]here is a statutory distinction between noncitizens who are detained *upon arrival* into the United States and those who are detained after they have *already entered* the country, legally or otherwise.” *Abreu v. Crawford*, 2025 WL 51475, at *3 (E.D. Va. Jan. 8, 2025).

37. Individuals with SIJS, such as Ms. Sosa Chavez, are “present in the United States,” meaning their detention is governed by section 1226(a). *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024).

38. For individuals detained under section 1226(a), detention is not mandatory. The government “may release the alien on—(A) a bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole.” 8 U.S.C. § 1226(a)(2).

39. In July 2025, Acting Director of ICE Todd Lyons issued an internal memorandum stating that ICE had “revised its legal position” on sections 1225(b) and 1226(a) and concluded that all persons who have not yet been admitted to the United States were “applicants for

admission” subject to mandatory detention under section 1225(b)(2)(A). *See Hasan*, 800 F. Supp. 3d at 657.²

40. DHS’s “novel interpretation of decades-old immigration detention statutes ... is contrary to DHS’s implementing regulations and published guidance, the decisions of its immigration judges (until very recently), longstanding practice in U.S. immigration law, the Supreme Court’s interpretation of the statutory scheme, and traditional tools of statutory construction.” *Teyim v. Perry*, 2025 WL 2950183, at *2 (E.D. Va. Oct. 15, 2025). The government’s revisionist interpretation of section 1225(b) is wrong and has been roundly rejected by this Court. *E.g.*, *Singh v. Lyons*, 2025 WL 2932635 (E.D. Va. Oct. 14, 2025) (Trenga, J.); *Alfaro v. Lyons*, 1:25-cv-1569, Dkt. 11 (E.D. Va. Oct. 11, 2025) (Trenga, J.); *Guerra Leon v. Noem*, 1:25-cv-1634, Dkt. 12 (E.D. Va. Oct. 8, 2025) (Brinkema, J.); *Lopez-Sanabria v. Bondi*, 1:25-cv-1511, Dkt. 9 (E.D. Va. Oct. 3, 2025) (Nachmanoff, J.); *Quispe-Ardiles v. Noem*, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025) (Nachmanoff, J.); *Luna Quispe v. Crawford*, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025) (Trenga, J.); *Hasan v. Crawford*, 800 F. Supp. 3d 641 (E.D. Va. 2025) (Brinkema, J.); *see also Luna Quispe*, 2025 WL 2783799, at *6 n.9 (collecting additional cases outside this District).³

² In September 2025, the BIA released “a precedential decision in *Matter of Yajure Hurtado* in line with Acting Director Lyons’ memorandum,” concluding that “nearly all noncitizens who entered the United States without inspection are now subject to mandatory detention,” under section 1225(b)(2). *Contreras Perez v. Noem*, 2025 WL 3281774, at *4 n.11 (E.D. Va. Nov. 25, 2025) (citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)). This Court “owes little deference of the BIA’s interpretation of the INA.” *Hasan*, 800 F. Supp. 3d at 657 n.11 (citing *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 412 (2024)); *see also Contreras Perez*, 2025 WL 3281774, at *4 n.11.

³ The Fifth Circuit recently found that section 1225’s mandatory detention provision applies to *all* noncitizens present without admission, contrary to the consensus among the Article III courts. *See Buenrostro-Mendez v. Bondi*, --- F.4th ---, 2026 WL 323330 (5th Cir. Feb. 6, 2026). This Court has noted that (1) it is “unpersuaded” by the reasoning in *Buenrostro-Mendez* and (2) that case is “not binding” upon this Court. *Juarez Aguilar v. Noem*, 1:26-cv-383, Dkt. 5 at 3 n.2 (E.D. Va.

41. As this Court has already held, aliens already present in the United States are detained under section 1226(a) and therefore entitled to a bond hearing. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1); *see, e.g., Hasan*, 800 F. Supp. 3d at 654–57; *Singh*, 2025 WL 2932635, at *2; *Quispe-Ardiles*, 2025 WL 2783800, at *6–7; *Luna Quispe*, 2025 WL 2783799, at *6; *Teyim*, 2025 WL 2950183, at *2–3.

42. Once an immigration judge has made a bond determination, “no change should be made by a [DHS] District Director absent a change of circumstances.” *Luna Sanchez*, 2025 WL 3191922, at *4.

43. Due to the recent increase in immigration enforcement, there has been a flurry of immigration-related habeas petitions in federal courts throughout the country, often resulting in individualized bond hearings for detained noncitizens. *See* Jack Karp, *Habeas Cases Flood Courts After Immigrant Detention Shift*, Law360 (Feb. 3, 2026).⁴ But recent reports suggest Immigration Courts have begun to ignore the orders of Article III courts by simply holding perfunctory hearings and denying bond for improperly detained noncitizens. *See id.* The former legal counsel to ICE Headquarters in Washington, DC, has attested that in 2026, there has been “a dramatic and systematic change in bond hearing outcomes that have occurred over the past three weeks in immigration proceedings in Virginia and Maryland.” Ex. A ¶ 5 (declaration of Jorge E. Artieda). Now, despite the orders of district courts to provide an individualized bond hearing, immigration judges have instead “systematically denied bond in post-habeas cases.” *Id.* ¶ 15. A court in this circuit recently found that “a bond hearing would be futile” and ordered the noncitizen detainee’s

Feb. 12, 2026) (Brinkema, J.); *see also, e.g., Reyes Zetino v. Noem*, 1:26-cv-378, Dkt. 5 at 2 n.1 (E.D. Va. Feb. 11, 2026) (Trenga, J.); *Orante Interiano v. Bondi*, 1:26-cv-320, Dkt. 5 at 3 n.2 (E.D. Va. Feb. 11, 2026) (Alston, J.); *Arellano Cardoso v. Bondi*, 1:26-cv-356, Dkt. 5 at 4 n.3 (E.D. Va. Feb. 10, 2026) (Nachmanoff, J.).

⁴ <https://tinyurl.com/pw4d7uc5>

immediate release because “there is little chance the Government would actually hold a bond hearing, and there is no chance any hearing that occurred would comport with due process.” *Briceno Solano v. Mason*, --- F. Supp. 3d ---, 2026 WL 311624, at *20 (S.D. W. Va. Feb. 4, 2026).

D. Ms. Sosa Chavez’s Detention is Governed by the Discretionary Detention Provisions in Section 1226 Due to Entering as an Unaccompanied Alien Child

44. While Sections 1225(b)(2) and 1226(a) govern the detention of most people within the United States subject to removal proceedings, unaccompanied alien children (“UACs”) who were detained at the border are also subject to a unique statutory scheme, the Trafficking Victims Protection Reauthorization Act (“TVPRA”). 8 U.S.C. § 1232.

45. The TVPRA requires that the detention of UACs fall under the oversight of the Department of Health and Human Services (“HHS”), not DHS. 8 U.S.C. § 1232(b)(1).

46. While under the legal custody of HHS, an UAC “shall be promptly placed in the least restrictive setting that is in the best interest of the child,” based on considerations of “danger to self, danger to the community and risk of flight.” 8 U.S.C. § 1232(c)(2)(A). Accordingly, detention of UACs pending removal is *not* mandatory. *Id.*

47. Moreover, when an UAC turns eighteen, legal custody is transferred to DHS, which must “consider placement in the least restrictive setting available after taking into account the [UAC’s] danger to self, danger to the community, and risk of flight.” *Id.* § 1232(c)(2)(B).

48. As numerous recent cases point out, the discretionary process set forth in the TVPRA is fundamentally inconsistent with mandatory detention. *See, e.g., Garcia Gabriel v. Hermosillo*, 2026 WL 194233, at *3 (W.D. Wash. Jan. 26, 2026) (noting that the TVPRA’s “requirement of placement in the least restrictive setting is in direct conflict with mandatory detention.”); *F.S.S.M. v. Wofford*, 2025 WL 3526671, at *4 (E.D. Cal. Dec. 9, 2025) (“Petitioner

cannot be simultaneously subject to both § 1225(b)(2) and the TVPRA because their detention schemes are facially incompatible.”).

49. Accordingly, where HHS previously exercised its discretion to release an UAC to a sponsor within the United States pursuant to the TVPRA, that individual cannot later be labeled as “seeking admission” or an “applicant for admission” and subject to mandatory detention under Section 1225. *See* 8 U.S.C. § 1101(a)(13)(A) (defining admission as “the lawful entry of [an] alien into the United States after inspection and authorization by an immigration officer”); *see also, e.g., Francisco v. Dedos*, 2026 WL 145456, at *9 (D.N.M. Jan. 20, 2026) (“Petitioner’s authorization and release into the country under § 1232 of the TVRPA constitute an initial admittance and he is no longer an ‘arriving alien’ or ‘seeking admission.’”), *report and recommendation adopted*, 2026 WL 300319 (D.N.M. Feb. 4, 2026); *Cornejo Rivera v. Olson*, 2026 WL 81753, at *2 (N.D. Ind. Jan. 12, 2026) (finding that UACs who “were turned over to HHS subject to the provisions of the TVPRA are not ‘applicants for admission’ within the meaning of Section 1225(b)(2)” and collecting cases); *Garcia Gabriel*, 2026 WL 194233, at *3 (“Petitioner cannot be subject to the detention procedures contained in § 1225 at all because he came to the United States as an unaccompanied minor.”); *Salvador v. Bondi*, 2025 WL 2995055, at *7 (C.D. Cal. Sept. 2, 2025) (similar); *F.S.S.M.*, 2025 WL 3526671, at *4 (similar).

50. Instead, where an individual designated as an UAC at the time of entry is later detained by ICE, their detention is subject to Section 1226—the “default rule”—which entitles them to an individualized determination of their flight risk and danger to the community. *See, e.g., Cornejo Rivera*, 2026 WL 81753, at *3 & n.3 (“Numerous courts have held that individuals who entered the United States as an unaccompanied minor and were turned over to HHS subject to the provisions of the TVPRA are not ‘applicants for admission’ within the meaning of Section

1225(b)(2).”); *Garcia Gabriel*, 2026 WL 194233, at *6 (similar); *Cornejo v. Andrews*, 2026 WL 237748, at *6 (E.D. Cal. Jan. 29, 2026) (“[W]here a non-citizen is apprehended upon entry into the United States and then released by DHS on their own recognizance, the individual is deemed detained under [Section 1226(a)].”).

51. Nothing in the Fifth Circuit’s recent decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *4 (5th Cir. Feb. 6, 2026), changes this analysis. In that case, the Fifth Circuit held that noncitizens who were “seeking admission” to the United States at the time they were encountered by ICE are subject to mandatory detention under Section 1225(b)(2). Because the petitioners in *Buenrostro-Mendez* entered the United States without inspection, the Fifth Circuit determined that they were still “seeking admission” and were therefore permissibly within the scope of Section 1225(b)(2), mandating detention. *Buenrostro-Mendez*, 2026 WL 323330, at *3.⁵

E. Ms. Sosa Chavez Is Entitled to Due Process Protections During Immigration Detention

52. The Fifth Amendment provides procedural protections for non-citizens. Its due process protections extend to all persons present in the United States, including “lawful, unlawful, temporary, or permanent” aliens. *Zadvydas*, 533 U.S. at 693. Aliens are entitled to due process protections in removal proceedings. *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (per curiam).

53. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690. Government detention violates the Due Process Clause unless it is “in a *criminal* proceeding with adequate procedural protections,” “or, in certain special and narrow

⁵ As noted above, this Court has found *Buenrostro-Mendez* not binding and its reasoning unpersuasive. *See supra*, n.3.

nonpunitive circumstances ... where a special justification outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (quotations omitted); *see also Quispe-Ardiles*, 2025 WL 2783800, at *8 (explaining that the Due Process Clause "prohibits the government from infringing on certain fundamental liberty interests, regardless of what process the government provides, 'unless the infringement is narrowly tailored to serve a compelling state interest'" (quoting *Reno v. Flores*, 507 U.S. 292, 301–02 (1993))).

54. This Court has repeatedly held that a noncitizen's continued detention under the government's incorrect interpretation of section 1225(b) violates the individual's due process rights. *E.g.*, *Quispe-Ardiles*, 2025 WL 2783800, at *8–10; *Luna Quispe*, 2025 WL 2783799, at *7–9; *Singh*, 2025 WL 2932635, at *3; *Teyim*, 2025 WL 2950183, at *1 & n.1; *Alfaro*, 1:25-cv-1569, Dkt. 11 (slip op.) at 5; *Guerra Leon*, 1:25-cv-1634, Dkt. 12 (slip op.) at *1–2 & n.1.

55. Even after the Fifth Circuit's decision in *Buenrostro-Mendez*, district courts in that Circuit have found that the *Buenrostro-Mendez* does not foreclose procedural due process arguments. *See, e.g., Hassen v. Noem*, 3:26-cv-48, Dkt. 8, at *4 n.1 (W.D. Tex. Feb. 9, 2026).

56. Additionally, courts, including this Court, have looked to a noncitizen detainee's mental health when assessing the constitutionality of their detention. *See, e.g., Hasan*, 800 F. Supp. 3d at 660 (finding the mental health of a noncitizen detainee relevant to the legal analysis); *H. H. v. Andrews*, 2026 WL 253426, at *8 (E.D. Cal. Jan. 30, 2026) (noting petitioner's "deteriorating mental health, including exacerbated severe depression and post-traumatic stress disorder" when granting petitioner's immediate release); *Mashchenko v. Rokosky*, 2026 WL 185204, at *4 (D.N.J. Jan. 25, 2026) (noting the impact of detention on petitioners' mental health when granting habeas relief); *Khorsheed v. Larose*, 2025 WL 3638141, at *3 (S.D. Cal. Dec. 15, 2025) (same); *Salgado v. Francis*, 2025 WL 2806757, at *6–8 (S.D.N.Y. Oct. 1, 2025) (same).

F. The Laken Riley Act Does Not Require Mandatory Detention for Ms. Sosa Chavez

57. Under 8 U.S.C. § 1226(c)(1)(E), known as the Laken Riley Act, a noncitizen will be subject to mandatory detention if the noncitizen is otherwise inadmissible and “is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of ... any crime that results in death or serious bodily injury to another person.”

58. Section 1226(c) is explicit in its use of the present tense to designate that only a noncitizen who *currently* “is charged with” certain categories of crimes is subject to mandatory detention. *See Stanley v. City of Sanford*, 145 S. Ct. 2058, 2063 (2025) (“‘[T]o ascertain a statute’s temporal reach,’ this Court has ‘frequently looked to Congress’ choice of verb tense.” (quoting *Carr v. United States*, 560 U.S. 438, 448 (2010))).

59. The statute’s word choice has led courts around the country, including this Court, to find that section 1226(c) only requires mandatory detention while the charges against the noncitizen are pending. *See, e.g., Ayala Hairo v. Crawford*, 2026 WL 286176, at *3 (E.D. Va. Feb. 3, 2026) (“[T]he Laken Riley Act does not authorize mandatory detention after charges have been dismissed.”); *Rueda Torres v. Francis*, 2025 WL 3168759, at *5 (S.D.N.Y. Nov. 13, 2025) (“Similarly, detention remains mandatory if charges are filed, but it is no longer required if charges are dropped or if a person is acquitted.”); *Helbrum v. Williams Olson*, 2025 WL 2840273, at *7 (S.D. Iowa Sept. 30, 2025) (“What Congress did not do is make detention mandatory for anyone who “*was* charged with” one of those offenses (past tense) but had the charges dismissed without a conviction or some other admission of guilt.” (emphasis in original))).

FACTUAL BACKGROUND

60. Ms. Sosa Chavez is a 20-year-old resident of Leesburg, Virginia. She has lived in the United States for nearly five years.

61. Ms. Sosa Chavez is from El Salvador. After her mother died, she went to live with an aunt who abused her and forbade her from going to school. Seeking safety and support, Ms. Sosa Chavez decided to move to the United States to live with her older sister, one of the only relatives she was still in contact with. When Ms. Sosa Chavez left the house and began her journey to the United States, [REDACTED]

62. After traveling as a 15-year-old for weeks without her family or friends, Ms. Sosa Chavez entered the United States without inspection in April 2021. She was apprehended by Customs and Border Patrol officers and provided with a Notice to Appear. Ex. B. As a minor, she was placed in a children's shelter run by the Office of Refugee and Resettlement, an office within the Department of Health and Human Services, for several months. Upon her release, a Virginia Juvenile Court found that Ms. Sosa Chavez has been abandoned and that it was in her "best interest to remain in the United States with" her older sister in Fairfax, Virginia. Ex. C.

63. On October 3, 2023, Ms. Sosa Chavez's application for SIJS was approved and accompanied by a grant of Deferred Action. Ex. D. Ms. Sosa Chavez is awaiting her turn on the visa bulletin to apply for a green card. Ms. Sosa Chavez also has a pending asylum application. Ex. E.

64. Since 2024, Ms. Sosa Chavez has lived in Leesburg, Virginia, and worked at a nearby McDonalds. Recently, her fiancé, an American citizen, moved in with her.

65. As a result of Ms. Sosa Chavez's trauma stemming from her aunt's abuse, Ms. Sosa Chavez has been diagnosed with post-traumatic stress disorder and "severe, major, recurrent" depression with psychosis. Ex. F. Ms. Sosa Chavez has received treatment for her condition and recently expressed interest in resuming professional care upon her release from detention. Despite

the challenges she faces due to her mental health struggles, Ms. Sosa Chavez has striven to become a productive member of society.

66. On January 9, 2026, Ms. Sosa Chavez was arrested following an alleged domestic dispute and charged under Virginia Code sections 18.2-51.6 and 18.2-57.2. Her fiancé declined to press charges and plans to continue living with Ms. Sosa Chavez upon her release. On February 13, 2026, the section 18.2-51.6 charge was dismissed, and the section 18.2-57.2 charge was deferred under a not guilty plea. Ex. G. Once Ms. Sosa Chavez completes the conditions outlined in the Sentencing Agreement, the section 18.2-57.2 charges will also be dismissed. *Id.*⁶

67. On February 13, 2026, Ms. Sosa Chavez was taken into custody by ICE from the Loudoun County Adult Detention Center.

68. As of the time of filing this petition, Ms. Sosa Chavez is detained by ICE at the Riverside Regional Jail in North Prince George, Virginia. Ex. J.

69. She has been detained without any individual determination regarding her continued detention.

70. No administrative remedies are available to Ms. Sosa Chavez. In September 2025, the BIA issued a precedential decision concluding that nearly all individuals who entered without inspection—like Ms. Sosa Chavez—are subject to mandatory detention under section 1225(b) and not entitled to a bond hearing. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Duarte Escobar v. Perry*, --- F. Supp. 3d ---, 2025 WL 3006742, at *5 (E.D. Va. Oct. 27, 2025).

⁶ Ms. Sosa Chavez had a minor criminal background prior to her recent arrest. In May 2024, she was charged with two counts of entering a motor vehicle and one count of grand larceny for allegedly stealing a cell phone. All three charges were nolle prossed. Ex. H. On January 5, 2026, Ms. Sosa Chavez was found guilty of driving without a license. Ex. I. In addition, she is charged with a second count of driving without a license and a failure to appear related to the traffic violations. The next hearing for those charges is scheduled for February 23. Ms. Sosa Chavez had a learners permit when she was charged and is in the process of obtaining a driver's license.

The BIA therefore has “redetermined the issue before it,” and any administrative appeal by Ms. Sosa Chavez seeking a bond hearing before the immigration court would be futile. *Duarte Escobar*, 2025 WL 3006742, at *5.⁷

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment Right to Due Process

71. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

72. Ms. Sosa Chavez has a grant of SIJS and is detained without proper legal authority. Such arbitrary detention violates her right to due process.

73. Ms. Sosa Chavez has been detained without any individualized determination, such as a bond hearing.

74. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V; *see generally Zadvydas*, 533 U.S. at 690. Ms. Sosa Chavez has been detained in relation to a civil immigration matter. Her detention violates due process unless the government can show that her detention qualifies as one of the “certain special and narrow nonpunitive circumstances ... where a special justification outweighs the individual’s constitutionally protected interest in avoiding physical

⁷ Ms. Sosa Chavez is likely not a member of the nationwide Bond-Eligible Class recently certified in the U.S. District Court for the Central District of California, because she was apprehended by Customs and Border Patrol upon her arrival into the United States. *See Maldonado Bautista v. Santacruz*, --- F. Supp. 3d ---, 2025 WL 3713982, at *32 (C.D. Cal. Dec. 18, 2025). Regardless of Ms. Sosa Chavez’s status, Respondents do not appear to be honoring the *Maldonado Bautista* Court’s final judgment. *Maldonado Bautista*, 5:25-cv-1873, Dkt. 102 (Jan. 16, 2026) (noting the Chief Immigration Judge’s nationwide guidance on the *Maldonado Bautista* relief).

restraint.” *Id.* at 690; *see also Quispe-Ardiles*, 2025 WL 2783800, at *8 (quoting *Reno*, 507 U.S. at 301–02); *Rodriguez*, 747 F. Supp. 3d at 917–19.

75. In 2021, the government released Ms. Sosa Chavez from its custody. In the years since, the government has granted her SIJS, provided her with employment authorization, and allowed her to live freely and begin building a life in the United States. Respondents violated Ms. Sosa Chavez’s right to procedural due process by detaining her on February 13, 2026, without providing adequate procedural protections before (or after) the resultant deprivation of her liberty. *Rodriguez*, 747 F. Supp. 3d at 917–19; *Sarmiento*, 2026 WL 131917, at *9 (noting that once released, noncitizens have “a protected liberty interest in remaining out of custody”).

76. Under the implementing regulations of section 1226(a), Ms. Sosa Chavez is entitled to a bond hearing before an immigration judge, where the immigration judge must determine whether she poses a danger to the community or whether she is a flight risk. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1, 1236.1(d)(1).

77. Unless an immigration judge makes such an individualized determination, Ms. Sosa Chavez’s continued detention is unlawful and a violation of her procedural due process rights. *See Teyim*, 2025 WL 2950183, at *8; *Luna Sanchez*, 2025 WL 3191922, at *5.

78. Accordingly, and for the following reasons, Ms. Sosa Chavez seeks immediate release with no subsequent bond hearing. *See Sarmiento*, 2026 WL 131917, at *10 (ordering the immediate release of a noncitizen detainee); *Luna Sanchez*, 2025 WL 3191922, at *5 (same) *Quispe-Ardiles*, 2025 WL 2783800, at *10 (same). First, recent reports indicate Ms. Sosa Chavez will likely not be given a meaningful opportunity to be heard before an immigration judge, as Due Process requires. *Supra*, ¶ 43; *J.G.G.*, 604 U.S. at 673 (per curiam). Second, due to her mental health condition, prolonged immigration detention could cause her mental state to deteriorate. *See*

Hasan, 800 F. Supp. 3d at 660. Third, Ms. Sosa Chavez's previous release from respondent's custody in 2021 compels her release here to restore her to the status quo ante. *Sarmiento*, 2026 WL 131917, at *10. And finally, Ms. Sosa Chavez's detention runs afoul of the TVPRA statute, violations of which regularly result in immediate release as a remedy. *See F.S.S.M. v. Wofford*, 2025 WL 3526671, at *2 (granting immediate release to a detained individual who entered the United States as a UAC); *Francisco v. Dedos*, 2026 WL 145456, at *13 (same).

79. In the alternative, Ms. Sosa Chavez seeks immediate release followed by an individualized bond hearing in front of an immigration judge that comports with Due Process requirements, relief that this Court has granted to other similarly situated detainees. *E.g., Alvarado Lopez v. Dillman*, 1:25-cv-2456, Dkt. 6 (E.D. Va. Jan. 6, 2026).

COUNT II

Violation of the Immigration and Nationality Act, 8 U.S.C. § 1226(a) and 8 C.F.R. §§ 236.1, 1236.1

80. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

81. Ms. Sosa Chavez was detained by ICE on February 13, 2026, at the Loudoun County Adult Detention Center in Leesburg, VA. At the time of her detention, Ms. Sosa Chavez had been residing in the United States for nearly 5 years.

82. As an alien "already present in the United States," Ms. Sosa Chavez's detention is governed by 8 U.S.C. § 1226(a), not section 1225(b). *Hasan*, 800 F. Supp. 3d at 652 (quoting *Jennings*, 583 U.S. at 303).

83. Since Ms. Sosa Chavez entered the United States as an UAC, she was ultimately "authorized [] to enter the United States under the TVPRA, a Congressionally enacted, lawful statute," and live with her sister. *Francisco*, 2026 WL 145456, at *8. This process "satisfies the

‘admission’ definition of [8 U.S.C.] § 1101(a)(13)(A), such that [Ms. Sosa Chavez] is not now ‘seeking admission’ within the meaning of [Section 1225(b)(2)].” *Id.* Accordingly, Ms. Sosa Chavez is subject to section 1226(a).

84. Under section 1226(a), Ms. Sosa Chavez is entitled to a bond hearing and may be released on—“(A) a bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole.” 8 U.S.C. § 1226(a)(2)(A)–(B); *see also* 8 C.F.R. §§ 236.1, 1236.1(d)(1).

85. Ms. Sosa Chavez is not currently “charged with ... any crime that results in death or serious bodily injury to another person.” 8 U.S.C. § 1226(c)(1)(E)(ii). Therefore, Ms. Sosa Chavez cannot be held in mandatory detention pursuant to the Laken Riley Act. *See Ayala Hairo*, 2026 WL 286176, at *3.

86. Ms. Sosa Chavez’s continued detention without the ability to seek release before an immigration judge violates the plain text of the INA and its corresponding regulations. But here, due to her circumstances, Ms. Sosa Chavez requests immediate release. *Supra*, ¶ 78.

COUNT III

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) — Arbitrary and Capricious Agency Action and Abuse of Discretion

87. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

88. The APA provides that courts “shall . . . hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

89. Respondent’s unilateral decision to arrest and detain Ms. Sosa Chavez on February 13, 2026, is in violation of the APA. The *same federal agency* holding her in custody, DHS,

previously approved her SIJS petition and granted her deferred action. This dramatic change in agency action is “arbitrary, capricious, [and] an abuse of discretion.” *Id.*; *see also Sarmiento*, 2026 WL 131917, at *8 (finding the rescission of an SIJS noncitizen’s deferred action pursuant to their detention was likely in violation of the APA).

90. Respondent’s arbitrary and capricious action requires immediate release as the proper remedy. *See Sarmiento*, 2026 WL 131917, at *7–8 (granting a noncitizen detainee immediate release after finding an APA violation).

PRAYER FOR RELIEF

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

91. Assume jurisdiction over these proceedings;
92. Issue an Order to Show Cause requiring Respondents to show cause why this Petition should not be granted within three days;
93. Order that Petitioner shall not be transferred outside of the Eastern District of Virginia pending the Court’s determination of this petition;
94. Declare that Petitioner’s detention is unlawful;
95. Issue a Writ of Habeas Corpus requiring Respondents to immediately release Petitioner without a subsequent bond hearing, or in the alternative;
96. Order Respondents to immediately release Petitioner, to be followed with a subsequent bond hearing before an Immigration Judge, in accordance with 8 U.S.C. § 1226(a), within 14 days after the Court’s order;
97. In the event that Petitioner is released, enjoin Respondents from rearresting Petitioner, unless she has committed a new violation of any federal, state, or local law, or has

failed to attend any properly noticed immigration or court hearing or is subject to detention pursuant to a final order of removal in accordance with 8 U.S.C. § 1231(a);

98. In the event that Petitioner is released, require Respondents to return Petitioner's personal property to her, including any of her identifications currently in Respondents' possession; and

99. Grant such further relief as the Court deems just, equitable, and appropriate.

Dated: February 15, 2026

By: /s/ Ryan Scarborough
Ryan Scarborough (VA Bar No. 43170)
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forthcoming)
Elizabeth A. Wilson (*pro hac vice*
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Counsel for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or my co-counsel have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby certify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 15, 2026

Respectfully submitted,

/s/ Ryan Scarborough
Ryan Scarborough (VA Bar No. 43170)

CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. I will then send the document and a notification of such filing (NEF) to the following parties:

Robert Guadian
Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane SW
Mail Stop 0485
Washington, DC 20528
Via Certified Mail

Jeffrey Dillman
c/o U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Via Certified Mail

Todd Lyons
Office of the General Counsel
U.S. Department of Homeland Security
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Daren Margolin
U.S. Department of Justice
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Kristi Noem, U.S. Secretary of Homeland Security
Office of the General Counsel
U.S. Department of Homeland Security
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Mail Stop 0485
Washington, DC 20528-0485
Via Certified Mail

Pamela Bondi
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
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A copy of the summons and complaint will also be sent to:

J. Frank Bradsher, Executive Assistant U.S. Attorney for the Eastern District of Virginia
Justin W. Williams United States Attorney's Building
2100 Jamieson Avenue
Alexandria, VA 22314
Via Certified Mail

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