

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

VALERIA PAK,

Petitioner,

v.

MICHAEL T. ROSE, Acting Field Office
Director of Enforcement and Removal
Operations, Philadelphia Field Office,
Immigration and Customs Enforcement;
ANGELA HOOVER, Warden of Clinton
County Correctional Facility,

Respondents.

PETITION FOR WRIT OF
HABEAS CORPUS

Case No.

INTRODUCTION

1. Petitioner Valeriia Pak is in the physical custody of Respondents at the Clinton County Correctional Facility (“CCCF”). She now faces unlawful detention because the Department of Homeland Security (“DHS”) and the Executive Office of Immigration Review (“EOIR”) have concluded Petitioner is subject to mandatory detention.

2. Petitioner entered the United States on or about January 14, 2024, at or near Tecate, California. Following her entry, she was apprehended by Customs and Border Patrol (“CBP”) and detained until January 16, 2024, when she was released on her own recognizance.

3. Following her entry, Petitioner was placed into removal proceedings under 8 U.S.C. § 1229a. *See* Exh. A (Notice to Appear, dated 01/16/2024). On that same date, Respondents issued a Notice to Appear (“NTA”) in Immigration Court to Petitioner, charging her as being an alien present in the United States without admission or parole under 8 U.S.C. § 1182(a)(6)(A)(i). *Id.*

4. Petitioner was instructed to routinely present herself at an Immigrations and Customs Enforcement (“ICE”) Field Office in Philadelphia, Pennsylvania as a condition of her release on recognizance, and Petitioner complied with ICE’s instructions.

5. On November 26, 2025, Petitioner was arrested by ICE in Philadelphia, Pennsylvania after presenting herself to the Philadelphia ICE Field Office for a purported routine “check-in” appointment. During this appointment, without any prior notice, Petitioner was told that she would be detained. The ICE agents then took Petitioner into custody and transported her to the Philadelphia Federal Detention Center (“FDC”). After Petitioner’s arrest, she was transferred from FDC to CCCF. Respondents have not provided Petitioner with a particular reason for her arrest to date.

6. Petitioner has no criminal history, and she resided in Pennsylvania, and was admitted into the Philadelphia Community College prior to her detention.

7. Because Petitioner has been charged on her NTA as an alien present in the United States without admission or parole pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), DHS has denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all 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.

8. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) 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). On May 15, 2025, the BIA previously issued a precedent decision, binding on all IJs, holding that an IJ has no authority to consider bond requests for any person who was released from detention pursuant to a grant of parole under section 212(d)(5)(a). *See Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025). The Board 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.

9. 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.

10. 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.

11. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released.

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at CCCF in McElhattan, Pennsylvania.

13. 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).

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Pennsylvania, the judicial district in which Petitioner currently is detained.

16. 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 Middle District of Pennsylvania.

REQUIREMENTS OF 28 U.S.C. § 2243

17. 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.*

18. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

19. Petitioner Valeriia Pak is a 27-year-old female alleged to be a native and citizen of Russia who has been in immigration detention at CCCF since November 26, 2025. After arresting Petitioner, ICE did not set bond and Petitioner is unable to obtain review of her custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

20. Respondent Michael T. Rose is the Acting Director of the Philadelphia Field Office of ICE’s Enforcement and Removal Operations division. As such, Respondent Rose is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

21. Respondent Angela Hoover is employed as the Warden of the Clinton County Correctional Facility, where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

LEGAL FRAMEWORK

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

23. 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* 8 U.S.C. § 1226(c).

24. 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).

25. 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).

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

27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) 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).

28. 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 and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

29. 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)).

30. On May 15, 2025, the BIA issued a precedent decision, binding on all IJs, holding that IJ has no authority to consider bond requests for any person who was released from detention pursuant to a grant of parole under section 212(d)(5)(a). *See Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025). The Board 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.

31. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. 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 provision under § 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.

32. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board 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>.

33. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities in over 1,600 decisions. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE. In over 1,600 cases² decided by over 300 different judges across the United States, the policy and/or *Matter of Yajure Hurtado* have been completely rejected. *Barco Mercado v. Francis et al.*, No. 25-06582, ECF No. 28 at *9-10, *35-40 (S.D.N.Y. Nov. 26, 2025). *See also Demirel v. Federal Detention Center Philadelphia, et al.*, No. 25-5488, 2025 WL 3218243, at *1 (E.D. Pa. Nov. 18, 2025) (provided full list of cases as of November 18, 2025). Court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No.

² A January 5, 2026, Politico article notes that "More than 300 federal judges, including appointees of every president since Ronald Reagan, have now rebuffed the administration's six-month-old effort to expand its so-called "mandatory detention" policy, according to a POLITICO analysis of court dockets from across the country. Those judges have ordered immigrants' release or the opportunity for bond hearings in more than 1,600 cases." *See* <https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494> (last accessed January 6, 2026).

1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

34. Indeed, within the Third Circuit, the Western District of Pennsylvania, the Middle District of Pennsylvania, the Eastern District of Pennsylvania, and the District of New Jersey have all rejected ICE and EOIR’s new interpretation. *See e.g., Calzado Diaz v. Noem et al.*, No. 3:25-CV-00458, 2025 WL 3628480 (W.D. Pa. Dec. 15, 2025); *Zeybek v. Oddo*, No. 25-512J, 2026 WL 35620 (W.D. Pa. Jan. 6, 2026); *Samassa v. Lowe*, 2025 WL 3653751 (M.D. Pa. Dec. 17, 2025) (Brann, C.J.); *Gonzalez Centeno v. Lowe* 2026 WL 94642 (M.D. Pa. Jan. 13, 2026) (Munley, J.); *Rios Porras v. O’Neill*, 2025 WL 3708900 (E.D. Pa. Dec. 22, 2025) (Beetlestone, C.J.); *Pereira v. O’Neill*, 2025 WL 3516665 (E.D. Pa. Dec. 8, 2025) (Marston, J.); *Conde v. Jamison*, 2025 WL 3499256 (E.D. Pa. Dec. 5, 2025) (Brody, J.); *Suspes v. Rose*, 2025 WL 3492820 (E.D. Pa. Dec. 5, 2025) (Brody, J.); *Hidalgo et al. v. O’Neill*, No. 25-cv-6775 (E.D. Pa. Dec. 5, 2025) (Diamond,

J.); *Delgado Villegas v. Bondi*, No. 25-cv-6143 (E.D. Pa. Dec. 4, 2025) (Diamond, J.); *Nogueira-Mendes v. McShane*, 2025 WL 3473364 (E.D. Pa. Dec. 3, 2025) (Slomsky, J.); *Juarez v. O'Neill*, 2025 WL 3473363 (E.D. Pa. Dec. 3, 2025) (Henry, J.); *Yilmaz v. Warden of Fed. Det. Ctr. Philadelphia*, 2025 WL 3459484 (E.D. Pa. Dec. 2, 2025) (Rufe, J.); *Soumare v. Jamison*, 2025 WL 3461542 (E.D. Pa. Dec. 2, 2025) (Henry, J.); *Flores Obando v. Bondi*, 2025 WL 3452047 (E.D. Pa. Dec. 1, 2025) (Brody, J.); *Wu v. Jamison*, No. 25-cv-6469 (E.D. Pa. Dec. 1, 2025) (J. Gallagher); *Valdivia Martinez v. FDC*, No. 25-cv-6568 (E.D. Pa. Dec. 1, 2025) (J. Savage); *Morocho v. Jamison*, 2025 WL 3296300 (E.D. Pa. Nov. 26, 2025) (Gallagher, J.); *Diallo v. O'Neill*, 2025 WL 3298003 (E.D. Pa. Nov. 26, 2025) (Savage, J.); *Centeno Ibarra v. Warden of the Fed. Det. Ctr. Philadelphia*, 2025 WL 3294726 (E.D. Pa. Nov. 25, 2025) (Rufe, J.); *Espinal Rosa v. O'Neill*, No. 25-cv-6376 (E.D. Pa. Nov. 25, 2025) (Weilheimer, J.); *Patel v. McShane*, 2025 WL 3241212 (E.D. Pa. Nov. 20, 2025) (Brody, J.); *Ndiaye v. Jamison*, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025) (Sánchez, J.); *Demirel v. Fed. Det. Ctr. Philadelphia*, 2025 WL 3218243 (E.D. Pa. Nov. 18, 2025) (Diamond, J.); *Kashranov v. Jamison*, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025) (Wolson, J.); *Cantu-Cortes v. O'Neill*, 2025 WL 3171639 (E.D. Pa. Nov. 13, 2025) (Kenney, J.). *Del Cid v. Bondi*, 3:25-cv-00304, 2025 WL 2985150 (W.D. Pa. Oct. 23, 2025); *Zumba v. Bondi*, Civ. No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Bethancourt Soto v. Louis Soto, et al.*, No. 25-CV-16200, 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Lomeu v. Soto, et al.*, No. 25CV16589 (EP), 2025 WL 2981296, at *8 (D.N.J. Oct. 23, 2025).

35. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA, finding that the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

36. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].” *Jennings*, 583 U.S. at 287 (quoting § 1226(a)).

37. 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). When Congress creates ‘specific exceptions’ to a statute’s applicability, it proves that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

38. 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.

39. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. 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).

40. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were apprehended by DHS *after* their entry.

41. Furthermore, the statutory basis for initial detention notwithstanding, once released, due process requires that a person like Petitioner receive a hearing before a neutral decisionmaker to determine whether any re-detention is justified, and whether the person is a flight risk or danger to the community.

42. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As several courts have recently recognized, this is the “most elemental of liberty interest.” *E.A. T.-B.*, 2025 WL 2402130, at *3 (citation modified); *see also Ramirez Tesara*, 2025 WL 2637663, at *5 (stating that the petitioner had “an exceptionally strong interest in freedom from physical confinement”).

43. Consistent with this principle, individuals released on parole or other forms of conditional release have a liberty interest in their “continued liberty.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

44. Such liberty is protected by the Fifth Amendment because, “although indeterminate, [it] includes many of the core values of unqualified liberty,” such as the ability to be gainfully employed and live with family, “and its termination inflicts a ‘grievous loss’ on the [released individual] and often on others.” *Id.*

45. To guarantee against arbitrary re-detention and to guarantee the right to liberty, due process requires “adequate procedural protections” that ensure the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

46. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of an individual’s release.

Goldberg v. Kelly, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law is the opportunity to be heard . . . at a meaningful time in a meaningful manner.” (citation modified)); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed . . . a violation of parole conditions” and that such determination be made “by someone not directly involved in the case” (citation modified)).

47. Several courts have recognized that these principles apply with respect to the re-detention of the many noncitizens, whom DHS has recently begun taking back into custody, merely to meet its daily arrest quotas. Such arbitrary re-arrests and re-detentions occur often after such persons have been released for months and years.

48. For example, in *E.A. T.-B.*, the court applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework to hold that even in a case where the government argued mandatory detention applied, a person’s re-detention nevertheless required a hearing.

49. In applying the three *Mathews* factors, the court held that the petitioner had “undoubtedly [been] deprive[d] . . . of an established interest in his liberty,” *E.A. T.-B.*, 2025 WL 2402130, at *3, which, as noted, “is the most elemental of liberty interests,” *id.* (citation modified). The court further explained that even if detention was mandatory, the risk of erroneous deprivation of liberty without a hearing was high because a hearing serves to ensure that the purposes of detention—the prevention of danger and flight risk—are properly served. *Id.* at *4–5. Finally, the Court explained that “the Government’s interest in re-detaining non-citizens previously released without a hearing is low: although it would have required the expenditure of finite resources (money and time) to provide Petitioner notice and hearing on [ISAP] violations before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous deprivation of the

liberty interest at issue.” *Id.* at *5. As a result, the court ordered the petitioner’s immediate release. *Id.* at *6.

50. Another court in the same district applied a similar analysis in *Ramirez Tesara*. There, the court reasoned that the petitioner had a “weighty” interest in his liberty and was entitled to the “full protections of the due process clause.” 2025 WL 2637663, at *3. When examining the value of additional safeguards, the court also noted that despite the government’s allegations of ISAP violations, “the fact ‘that the Government may believe it has a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process.’” *Id.* at *4 (quoting *E.A. T.-B.*, 2025 WL 2402130, at *4). Finally, the court reasoned that any government interest in re-detention without a hearing was “minimal.” *Id.* Accordingly, there too, the court ordered the petitioner’s immediate release. *Id.* at *5. 44. The *Kumar* and *Ledesama Gonzalez* courts reached the same decision, again holding that all three factors weighed in favor of affording the petitioner a bond hearing. 2025 WL 2677089, at *3–4; 2025 WL 2841574, at *7–9.

51. These courts’ decisions in *Ledesama Gonzalez*, *E.A. T.-B.*, *Ramirez Tesara* and *Kumar* are consistent with many other district court decisions addressing similar situations. *See, e.g., Valdez v. Joyce*, 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, -- F. Supp. 3d --, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar); *Rodriguez v. Kaiser*, 2025 WL 2855193 (E.D. Cal. Oct. 8, 2025), at *6 (similar); *Orellana v. Francis*, 2025 WL 2402780 (E.D.N.Y. August 19, 2025) (ordering immediate release due to violation of

Administrative Procedure Act when petitioner was not provided hearing upon revocation and re-detention of his parole); *Y-Z-L-H v. Bostock*, 792 F.Supp.3d 1123, (D.Or. July 9, 2025) (similar).

52. The same framework and principles apply here and compel Petitioner's immediate release.

FACTS

53. Petitioner incorporates herein by reference paragraphs 1-11, *supra*.

54. On November 26, 2025, Petitioner was arrested by ICE officers in Philadelphia, Pennsylvania, during a routine ICE check-in at a Philadelphia ICE Field Office. The officers did not provide Petitioner with a reason for her arrest, and she had previously been compliant with all the conditions set forth by ICE upon her release on her own recognizance.

55. DHS has now placed Petitioner in detained removal proceedings, yet again, pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

56. Petitioner has no criminal history, and she resided and worked in Pennsylvania with her family prior to her detention. As such, Petitioner is neither a flight risk nor a danger to the community.

57. Following Petitioner's arrest and transfer to CCCF, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

58. Without relief from this Honorable Court, she faces the prospect of months, or even years, in immigration custody, separated from her family and community.

IMMEDIATE RELEASE IS WARRANTED

59. The Supreme Court has recognized that “Habeas has traditionally been a means to secure *release* from unlawful detention.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107, 140 S.Ct. 1959, 207 L.Ed.2d 427 (2020) (emphasis in original). Several decisions from the Third Circuit have ordered immediate release in similar cases. *See e.g., Bhatia v. O’Neill, et al.*, No. 25-6809, Dkt. 8 (E.D. Pa. Dec. 10, 2025); *Rodrigues Pereira v. O’Neill, et al.* No. 25-6543, Dkt. 11 (E.D. Pa. Dec. 8, 2025); *Morocho v. Jamison, et al.*, No. 25-05930, 2025 WL 3296300, at *3 (E.D. Pa. Nov. 26, 2025); *Diallo v. O’Neill, et al.*, 25-06358, Dkt. 10 (E.D. Pa. Nov. 26, 2025); *Patel v. McShane, et al.*, 25-05975 (E.D. Pa. Nov. 20, 2025). The Court should not depart from this norm.

60. As noted above, over a thousand district court decisions addressing the legal issues presented in the underlying Petition for Writ of Habeas Corpus and rejected the government’s position. *Barco Mercado v. Francis et al.*, No. 25-06582, ECF No. 28 at *9-10, *35-40 (S.D.N.Y. Nov. 26, 2025). Those Courts have roundly rejected Government’s interpretation of the Immigration and Nationality Act (INA); the interpretation that is part of the Department of Homeland Security’s (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; and the interpretation is part of the Board of Immigration Appeals’ (BIA or Board) September 5, 2025 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),

which 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.

61. Many of these decisions have found that Respondents' erroneous application of the law violates the respective detainees constitutional right to Due Process. *See e.g., Cantu-Cortes v. O'Neill*, No. 25-6338, 2025 WL 317639 (E.D. Pa. Nov. 13, 2025); *Bethancourt Soto v. Soto*, 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Sanchez Ballestros v. Noem*, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025); *Hernandez-Alonso v. Tindall*, 2025 WL 3083920 (W.D. Ky. Nov. 4, 2025); *Rodriguez Serrano v. Noem*, 2025 WL 3122825 (W.D. Mich. Nov. 7, 2025); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, (N.D. Ill. Oct. 16, 2025); *Rosales Ponce v. Olson*, 2025 WL 3049785 (N.D. Ill. Oct. 31, 2025); *Loza Valencia v. Noem*, 2025 WL 3042520 (N.D. Ill. Oct. 31, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Guerrero Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *E.C. v. Noem*, 2025 WL 2916264 (D. Nev. Oct. 14, 2025); *Garcia Domingo v. Castro*, 2025 WL 2941217 (D.N.M. Oct. 15, 2025); *Artiga v. Genalo*, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025).

62. Despite this *overwhelming rejection* of Respondents' new policies and *Matter of Yajure Hurtado*, and hundreds of decisions finding that Respondents are violating the constitutional rights, **Respondents refuse to relent and continue act in defiance of the law and the Constitution.** It has been reported that ICE agents inform detainees that they "have to sue us [ICE] to get out."

63. Petitioner is now one of the approximately 70,000 people detained by Respondents.³ Respondents' unlawful behavior is pervasive and defies decision after decision

³ See ICE's publicly available detention data, available at: <https://www.ice.gov/detain/detention-management>

from the Courts. As Petitioner's arrest and detention were blatantly unlawful from the start, the only commensurate and appropriate equitable remedy to even partially restore Petitioner is to immediately release her and enjoin the Government from further similar transgressions. *See e.g., Martinez v. McAleenan*, 385 F. Supp. 3d 349, 373 (S.D.N.Y. 2019).

CLAIMS FOR RELIEF

COUNT I Violation of the INA

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

65. 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 relevant here, it does not apply to those who previously entered the country, were apprehended by ICE or CBP, and were then released on their own recognizance. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

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

COUNT II Violation of the Bond Regulations

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

68. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present

without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

69. Nonetheless, pursuant to *Matter of Yajure Hurtado* and *Matter of Q. Li*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

70. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of the Fifth Amendment Due Process Clause
Unlawful Re-Detention

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

72. 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 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas*, 533 U.S. at 690.

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

74. The government’s detention of Petitioner without a bond redetermination hearing to determine whether she is a flight risk or danger to others violates her right to due process.

75. Further, Respondents’ re-detention of Petitioner violates her rights guaranteed by the Due Process Clause of the Fifth Amendment of the U.S. Constitution; the INA, 8 U.S.C. § 1231(a); implementing regulations, 8 C.F.R. § 241.13; and the APA.

76. Individuals released from custody have a constitutionally protected interest in their continued liberty. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997) (finding liberty interest for petitioner on pre-parole conditional supervision program when parole was denied and he was ordered back into custody); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973) (holding that a liberty interest attaches for individuals released on probation).

77. Because re-detention implicates the same sort of liberty interests, due process requires a procedurally adequate process to test the basis for detention, including notice of the reasons for re-detention and an opportunity to be heard. *See Villiers v. Decker*, 31 F.4th 825, 833 (2d Cir. 2022) (“[A]n individual whose release is sought to be revoked [by ICE] is entitled to due process such as notice of the alleged grounds for revocation, a hearing, and the right to testify at such a hearing”).

78. There is no evidence that Petitioner is a flight risk or a danger. She has no criminal records and has complied with all conditions set forth during her release from ICE custody in 2024, applied for asylum, and otherwise done everything required of her while in the United States.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. **Order that Petitioner shall not be transferred outside the Middle District of Pennsylvania 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. **Issue a Writ of Habeas Corpus requiring that Respondents to release Petitioner immediately;**

- e. Declare that Petitioner's detention is unlawful;
- f. Order that upon Petitioner's release, Respondents return all of Petitioner's personal belongings confiscated upon her detention, including identification documents;
- g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- h. Grant any other and further relief that this Court deems just and proper.

Respectfully Submitted,

DATED this Sixteenth Day of February 2026.

s/Christopher M. Casazza
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