

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Rosa RIVERA ARGUETA,

Petitioner

v.

Vernon LIGGINS, Field Office Director,
Immigration and Customs Enforcement
Baltimore Field Office

Kristi NOEM, Secretary of Homeland
Security,

Pamela BONDI, Attorney General of the
United
States,

Respondents

Case No.:

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Rosa Rivera Argueta (“Ms. Rivera Argueta” or “Petitioner”),¹ a 31-year-old mother of two United States citizens and long-time Maryland resident, seeks a writ of habeas corpus ordering her immediate release from custody at the Baltimore ICE office, pending a bond hearing to occur within 14 days at the Hyattsville Immigration Court. *See, e.g., Vasquez Sanchez v. Noem*, 8:26-cv-331, Dkt. No. 11 (D. Md. Jan 30, 2026).

2. Ms. Rivera Argueta came to the United States in 2019, while pregnant with the oldest of her two U.S.-born children. Since 2019, Ms. Rivera Argueta has solely resided in the Baltimore area. She has no criminal history. Ms. Rivera Argueta currently lives in Baltimore City with her two children, her sister-in-law, and her sister-in-law’s child.

¹ Petitioner’s A number is 201-712-320.

3. On February 20, 2026, Ms. Rivera Argueta arrived at the Baltimore ICE office for her annual check-in pursuant to an order of supervision. At this visit, she was told that she was “an illegal” and was taken into custody. On information and belief, ICE arrested Ms. Rivera Argueta without an administrative warrant and without probable cause that she was an escape risk, as required by 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii).

4. Ms. Rivera Argueta is currently locked in a crowded cell at the Baltimore ICE office, which is the subject of an ongoing lawsuit in this Court. *See, e.g., D.N.N. v. Bacon*, 1:25-cv-1613, Dkt. No. 127-1 (D. Md. Dec. 23, 2025) (preliminary injunction motion describing overcrowding, filthy conditions, and grossly inadequate medical care at Baltimore ICE office). Absent intervention from this Court, ICE will send Ms. Rivera Argueta to a detention center far away from her children and deny her access to the bond hearing to which she entitled under 8 U.S.C. § 1226(a).

JURISDICTION AND VENUE

5. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by DHS. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydass v. Davis*, 533 U.S. 678, 687 (2001). This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause).

6. This Court has subject matter 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).

7. 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 District of Maryland, the judicial district in which Ms. Rivera Argueta is currently detained.

8. 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 this district.

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless Ms. Rivera Argueta 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.*

10. 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

11. Petitioner was detained by the Respondents on February 20, 2026, and remains in ICE custody at the Baltimore ICE office as of the time of this filing.

12. Respondent Vernon Liggins is the Field Office Director for the Baltimore Field Office of Immigration and Customs Enforcement (ICE). Petitioner is currently detained at the Baltimore Field Office and Respondent Liggins is Petitioner’s immediate custodian.

13. Respondent Kristi Noem is the Secretary of DHS. 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. Secretary Noem has ultimate custodial authority over Petitioner.

14. Respondent Pamela Bondi is the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals (BIA).

15. All Respondents are sued in their official capacities.

FACTS

16. Ms. Rivera Argueta was born in El Salvador in 1994 and entered the United States in 2019, while pregnant with her oldest child.

17. Upon entering the United States, Ms. Rivera Argueta came to live in Baltimore with other family members, including her cousin and her cousin's children. During the day, she cares for her children (ages two and six), her cousin's children (ages five and ten), and her sister-in-law's child (age eight). She has no criminal or traffic citation history.

18. Ms. Rivera Argueta currently resides in Baltimore with her children, her sister-in-law, and her sister-in-law's eight-year-old child. She has continuously resided in the Baltimore area since entering the United States in 2019. She came to the United States with her husband (also the father of her children), from whom she has since separated. Upon information and belief, Ms. Rivera Argueta has been under an order of supervision since 2019 and has met her annual check-in requirements each year.

19. During her annual check-in on February 20, 2026, ICE agents informed Ms. Rivera Argueta that she was being taken into custody because she was "an illegal." The ICE officers did

not identify any change in circumstances since her initial order of supervision, and did not evaluate whether she was an escape risk before arresting and detaining her.

20. Ms. Rivera Argueta has remained detained at the Baltimore ICE office since her arrest on February 20. Her family received one call from her on February 20, but she has not been able to speak to her family since then.

LEGAL FRAMEWORK

21. The INA prescribes three primary detention authorities applicable to most noncitizens in removal proceedings.

22. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a. Individuals detained under § 1226(a) 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 arrested, charged with, or convicted of certain crimes are subject to mandatory detention under § 1226(c). Discretionary detention under § 1226(a) has been described as the “default” detention authority in standard removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). Under § 1226(a), “[e]xcept as provided in subsection (c),” the Attorney General “may release” a noncitizen on “bond” or “conditional parole.” *Id.* (internal citation omitted).

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

24. Third, the INA authorizes detention of noncitizens who have been ordered removed, including individuals in reinstatement or withholding-only proceedings. 8 U.S.C. § 1231(a)–(b).

25. This case concerns the detention provisions set forth at 8 U.S.C. §§ 1226(a) and

1225(b).

26. On July 8, 2025, ICE, in coordination with the Department of Justice, announced a new policy that departed from this long-standing statutory interpretation. That policy—“Interim Guidance Regarding Detention Authority for Applicants for Admission”—asserts that all individuals who entered the United States without inspection are subject to detention under § 1225(b)(2)(A) without eligibility for bond, regardless of how long they have resided in the United States. DHS acknowledged that this policy represents a marked deviation from prior practice.

27. On September 5, 2025, the Board of Immigration Appeals adopted this position in *Matter of Yajure Hurtado*, holding that noncitizens who entered without admission or parole are subject to detention under § 1225(b)(2)(A) and ineligible for bond hearings.

28. Since Respondents adopted these policies, the overwhelming majority of federal district courts have rejected ICE’s interpretation of the INA and declined to follow *Matter of Yajure Hurtado*. Jurists in this Court have consistently rejected *Matter of Yajure Hurtado* and held that non-citizens who entered the United States without inspection and who were subsequently arrested in the interior of the United States are entitled to a bond hearing under § 1226(a). *See, e.g., Villaneva Funes v. Noem*, No. 25-cv-3860-TDC, 2026 WL 92860, at *4 (D. Md. Jan. 13, 2026); *Afghan v. Noem*, CV-SAG-25-04105, 2025 WL 3713732 (D. Md. Dec. 23, 2025); *Hernandez-Lugo v. Bondi*, Civ. No. GLR-25-3434, 2025 WL 3280772 (D. Md. Nov. 25, 2025) *Maldonado de Leon v. Baker*, Civ. No. 25-3084-TDC, 2025 WL 2968042 (D. Md. Oct. 21, 2025).

29. Section 1225(b) applies only to people arriving to and seeking admission at the U.S. border. 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). *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Accordingly, § 1225(b)(2)(A) does not apply to individuals like Ms. Rivera

Argueta, who had already entered and was residing in the United States at the time of her arrest.

30. In light of the overwhelming legal authority supporting these rulings and the government's increasingly arbitrary enforcement trends, this Court has recently remedied unlawful detention in these circumstances by ordering the petitioner *immediately released* from custody pending a bond hearing to occur in immigration court at a later time. *See, e.g., De Leon Rosales v. Liggins*, 8:26-cv-393, Dkt. No. 11 (D. Md. Feb. 3, 2026); *Vasquez Sanchez*, 8:26-cv-331, Dkt. No. 11; *Afghan*, 2025 WL 3713732, at *3.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA and the APA

1. The preceding paragraphs are incorporated by reference

2. 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 present without having been admitted or paroled. By its very terms, it applies only to those noncitizens who are apprehended while they are applying for admission near the border or at a port of entry. As relevant here, it does not apply to those who are alleged to have 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.

3. Since Ms. Rivera Argueta is not an applicant for admission “seeking admission” or “an arriving alien” subject to § 1225(b) and has no disqualifying criminal arrests or convictions subject to § 1226(c), she is entitled to a bond hearing by an immigration judge pursuant to § 1226(a). The application of § 1225(b)(2) to Ms. Rivera Argueta unlawfully mandates her continued detention and violates the INA by depriving her of the rights she should be afforded under § 1226(a). To the extent that DHS asserts that *Matter of Yajure-Hurtado* nevertheless requires her

mandatory detention, the BIA's interpretation in that case is ultra vires and in conflict with the careful balance of factors clearly established in the INA with regard to bond eligibility, and not subject to deference. *See Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). Such an agency action also violates the Administrative Procedure Act, as it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; and in excess of statutory jurisdiction, authority, or limitations, or short of statutory right. 5 U.S.C. § 706(2)(A)–(C).

COUNT II
Violation of Due Process

4. Ms. Rivera Argueta repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

5. The Due Process Clause prohibits the government from infringing upon certain “fundamental” liberty interests, “unless the infringement is narrowly tailored to support a compelling government interest.” *Reno v. Flores*, 507 U.S. 292, 302 (1993). It applies to “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

6. 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 v. Davis*, 533 U.S. 678, 690 (2001).

7. Under the framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976), categorically denying Ms. Rivera Argueta's petition based on *Matter of Yajure Hurtado* violates procedural due process for several reasons, including but not limited to:

a. Ms. Rivera Argueta has a substantial liberty interest in freedom from physical

restraint, as she is currently incarcerated after living in the United States since 2019.

- b. The risk of erroneous deprivation of liberty is exceptionally high because Respondents' interpretation categorically denies Ms. Rivera Argueta any opportunity to demonstrate—through an individualized hearing, as contemplated by the INA—that she is neither a flight risk nor a danger to the community.
- c. The burden on the Government is minimal, as until DHS's very abrupt re-interpretation of the INA in *Matter of Yajure Hurtado*, IJs regularly conducted bond hearings for people like Ms. Rivera Argueta, and IJs weighed individualized risks appropriately as required by the INA. The Government's burden to do what it has always done does not justify any additional weight given to this factor.

COUNT III

Violation of 8 U.S.C. § 1357 and Accompanying Regulations

8. Respondents arrested Ms. Rivera Argueta without a warrant and without evaluating or possessing probable cause to believe she is an escape risk, as required by 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii).

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue an Order requiring Respondents to show cause within three days why this Petition should not be granted;
- c. Declare that Petitioner's detention is unlawful, and that she is not "seeking admission" or "an arriving alien" subject to 8 U.S.C. § 1225(b);
- d. Declare that Respondents may properly detain Petitioner, if at all, only pursuant to 8 U.S.C. § 1226(a);

- e. Declare that Respondents' actions, as set forth herein, violate Petitioner's due process rights and/or 8 U.S.C. § 1357;
- f. Issue a Writ of Habeas Corpus requiring that Respondents immediately release Petitioner, pending a bond hearing pursuant to 8 U.S.C. § 1226(a) to occur within fourteen days in the Hyattsville Immigration Court;
- g. Issue appropriate injunctive relief; and
- h. Grant any other and further relief that this Court deems just and proper.

Date: February 24, 2026



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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 24, 2026

Respectfully submitted,



Joseph P. Kavanagh (Fed. Bar. No. 30694)
Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for a Writ of Habeas Corpus using the CM/ECF system.

Dated: February 24, 2026



Joseph P. Kavanagh (Fed. Bar. No. 30694)
Pro Bono Counsel for Petitioner