

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
BALTIMORE DIVISION

MARIA LEONARDA DOMINGUEZ, )  
c/o Sabitiyu Abou )  
Law Office of Sabitiyu Abou )  
203 Broadway Street, Suite 110 )  
Baltimore, MD 21201 )  
*Petitioner,* )

Case No. \_\_\_\_\_

v. )

KRISTI NOEM, )  
Secretary of Homeland Security, )  
245 Murray Lane, SW )  
Washington DC 20528 )

TODD M. LYONS, Acting Director, )  
U.S Immigration and Customs )  
Enforcement )  
500 12<sup>th</sup> Street SW )  
Washington DC 20536 )

MATTHEW ELLISTON, Director )  
ICE Baltimore Field Office )  
31 Hopkins Plaza )  
Baltimore, MD 21201 )

PETITION FOR WRIT OF HABEAS  
CORPUS PURSUANT TO 28 U.S.C.  
§ 2241

PAMELA BONDI, )  
United States Attorney General; )  
950 Pennsylvania Avenue, NW )  
Washington DC 20530; *in their* )  
*official capacities,* )

*Respondents.* )

**PETITION FOR A WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241**

**I. INTRODUCTION**

1. 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 (hereinafter, IJ) has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The 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. *Id.*
2. On February 18, 2026, U.S District Court Judge Sunshine Suzanne Sykes issued an order vacating the Board's decision in *Matter of Yajure Hurtado*. See Exhibit.
3. Ms. Dominguez Lopez's detention without any opportunity to seek bond contravenes the fundamental Due Process protections of the U.S. Constitution.
4. Accordingly, Ms. Dominguez Lopez seeks a writ of habeas corpus requiring her immediate release.

**II. JURISDICTION AND VENUE**

5. Jurisdiction is proper under 28 U.S.C. §§ 1331, 2241, and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2.
6. 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.
7. Venue is proper in the United States District Court for the District of Maryland because at least one Respondent is in this District, Maria Leonarda Dominguez is detained in this District, and Maria Leonarda Dominguez's immediate physical custodian is in this District. *See* 28 U.S.C. §

1391(b).

### III. PARTIES

8. Petitioner, Maria Dominguez Lopez is a noncitizen who was granted withholding of removal under CAT and has lived in the United States continuously for over eleven (11) years. She has been in Immigration and Customs Enforcement (ICE) custody since March 2, 2026. She is currently detained at Baltimore, ICE Field Office, 31 Hopkins Plaza, Baltimore, MD 21201. After arresting withholding of removal under CAT, ICE did not set bond, and is unable to obtain review of her custody by an IJ.
9. Respondent, Matthew Elliston is the Director for Baltimore ICE Office. He is the legal and physical custodian of Maria Dominguez Lopez and is named in his official capacity. His address is George Fallon Building, 31 Hopkins Plaza, Baltimore MD 21201.
10. Respondent Todd Lyons is the Acting Director of ICE. He is a legal custodian of Maria Dominguez Lopez and is named in his official capacity. His address is U.S. Immigration and Customs Enforcement, Office of the Principal Legal Advisor, 500 12th St. SW, Mailstop 5900, Washington, D.C. 20536.
11. Respondent Kristi Noem is the Secretary of DHS. She is a legal custodian of Maria Dominguez Lopez and is named in her official capacity. Her address is Office of the General Counsel, MS 0485 Department of Homeland Security, 2707 Martin Luther King, Jr. Ave. SE, Washington, D.C. 20528-0525.
12. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.
13. Respondent Pamela Bondi is the Attorney General of the United States Department of Justice (DOJ). She is a legal custodian of Maria Dominguez Lopez and is named in her official

capacity. Her address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001.

14. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

#### IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. No statutory exhaustion requirement applies to a petition challenging immigration detention under 28 U.S.C. § 2241. Unlike 28 U.S.C. § 2254, Section 2241's text does not require exhaustion. Section 2241 contains no statutory requirement of exhaustion like that found in section 2254(b). Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.
16. Maria Dominguez Lopez claims that her detention is unconstitutional because it contravenes the Fifth Amendment and is unrelated to any legitimate government purpose. Exhaustion is not required where a claimant raises a constitutional claim that an agency would clearly reject.
17. Further, “[w]here Congress has not clearly required exhaustion, sound judicial discretion governs.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In exercising that discretion, a court must weigh an individual's interest in accessing the court against the institutional interests in exhaustion: protecting agencies' authority and promoting judicial efficiency. *Id.* at 145–46.
18. An individual's interests “weigh heavily against requiring administrative exhaustion” when requiring exhaustion may unduly prejudice the plaintiff, when there is “some doubt as to whether the agency was empowered to grant effective relief,” and when an administrative body is biased or has pre-determined the issue before it. *Id.* at 146–48.

19. Courts should not require exhaustion because of the risk of undue prejudice where there is an “unreasonable or indefinite timeframe for administrative action,” or alternatively, where the petitioner “may suffer irreparable harm if unable to secure immediate judicial consideration of her claim.” *Id.* at 147. Maria Dominguez Lopez is irreparably harmed by her unlawful detention in and of itself, and would continue to be irreparably harmed for whatever period would be necessary for further exhaustion.
20. The Supreme Court has found “some doubt” sufficient to remove the exhaustion requirement where a case challenges “adequacy of the agency procedure itself,” or where an agency lacks “institutional competence to determine the constitutionality of a statute.” *Id.* at 147–48. Maria Dominguez Lopez claims that her detention and the related agency procedure of denying bond hearings is unconstitutional because it contravenes the Fifth Amendment and is unrelated to any legitimate government purpose.
21. Moreover, further action with the agency is unnecessary where pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *Id.* at 148. The BIA’s decision in *Matter of Yajure Hurtado* demonstrates that the agency has predetermined the key issue in this petition. There, the agency stated that it believes people like Maria Dominguez Lopez, who have entered without inspection, are detained under section 1225(b)(2)(A) and subject to mandatory detention. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Further appeal to the BIA would be futile. Accordingly, there are no genuine or meaningful administrative remedies available to Maria Dominguez Lopez and exhaustion is not required.

## V. STATEMENT OF FACTS

22. Maria Dominguez Lopez has lived in Frederick, Maryland for more than ten years. Until March 4, 2026, she lived a quiet life with her husband and U.S Citizen children.

23. Petitioner, Maria Leonarda Dominguez Lopez is a native and citizen of El Salvador who entered the United States on or about October 15, 2014. She was charged and placed in removal proceedings on or about November 18, 2014. She was granted withholding of removal under CAT on May 1, 2019. On March 2, 2026 she appeared at the Baltimore ICE office for a check in and was detained by Immigrations and Customs Enforcement at 31 Hopkins Plaza, Baltimore MD 21201. She continues to be held at the Baltimore Field Office.

## VI. LEGAL FRAMEWORK

### A. Respondents' Interpretation of Sections 1225 and 1226 Flies in the Face of the Plain Meaning of the INA.

1. The long-standing agency interpretation of the INA was that section 1225 governed detention of noncitizens at or near the border, while section 1226 governs detention of those who are already present in the United States. For decades, noncitizens apprehended while already present in the United States were generally entitled to a bond hearing, unless their criminal history rendered them ineligible under section 1226(c).
2. On July 8, 2025, ICE, "in coordination with" the DOJ, announced a new policy claiming that any noncitizen who ever entered without inspection is subject to mandatory detention under section 1225(b)(2)(A), regardless of when they entered, when they are apprehended, and how their ongoing detention may impact them and their families.<sup>1</sup>
3. On September 5, 2025, the BIA parroted this novel interpretation in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, the BIA held that all noncitizens who are present in the United States without admission are subject to mandatory

detention under section 1225(b)(2)(A) and are ineligible for bond hearings. *Yajure Hurtado*, 29 I&N at 216.

4. Several federal courts, have rejected Respondents' interpretation of section 1225.
5. District courts have uniformly rejected DHS and EOIR's new interpretation because it is contrary to the INA. As the *Lopez Santos* court and others have explained, the plain text of the two provisions demonstrates that section 1226(a), not section 1225(b)(2)(A), applies to people
6. On February 19, 2026, U.S District Judge Sunshine Sykes issued an order vacating Matter of Yajure Hurtado. See Order.

## **CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **Fifth Amendment Procedural Due Process**

7. Maria Dominguez Lopez realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.
8. The government's infringement on Maria Dominguez Lopez's liberty interest triggers a right to contest that infringement, for example, through a hearing before the right is deprived. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569–70 (1972).
9. The sufficiency of any process afforded is determined by weighing three factors: (i) the private interest that will be affected by the official action, (ii) the risk of erroneous deprivation of that interest through the available procedures, and (iii) the government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). "The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time." *M.S.L. v. Bostock*,

No. 25-cv-1204, 2025 WL 2430267, at \*8 (D. Or. Aug. 21, 2025) (citing *Mathews*, 424 U.S. at 348).

10. Maria Dominguez Lopez has a right to a bond hearing because she is properly detained under a statute, 8 U.S.C. § 1226, that allows for release on bond. Because she was denied any hearing or any other of the procedural protections that such a significant deprivation of her liberty interest would require, her continued detention violates her procedural due process rights. *See Mathews*, 424 U.S. at 332–33.
11. Additionally, 8 U.S.C. § 1225(b)(2)(A) is unconstitutional as applied to Maria Dominguez Lopez, because it does not provide sufficient procedural due process.
12. Maria Dominguez Lopez has a strong personal liberty interest in freedom from civil confinement. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).
13. Respondents' failure to grant an individualized hearing on whether Maria Dominguez Lopez's detention is justified to prevent flight or mitigate risk of danger to the community creates the highest risk of erroneous deprivation of liberty. *See Zadvydas*, 533 U.S. at 690.
14. Respondents incur no additional burden by providing Maria Dominguez Lopez with such process because it merely comports with both the requirements of the INA and the constitutional protections guaranteed by the Fifth Amendment.
15. Several Courts in this District has found that individuals in Maria Dominguez Lopez's position are entitled to a bond hearing and that an individual's entitlement to due process under the Fifth Amendment is not capped by the statute governing her detention.
16. As to the first *Mathews* factor, a "noncitizen's interest in his freedom pending the conclusion of his removal proceedings deserves great "weight and gravity."” *Id.* at \*6 (citing *Addington v. Texas*, 441 U.S. 418, 427 (1979); *Landon v. Plasencia*, 459 U.S. 21, 34 (1982)). This interest is

strengthened when the noncitizen has, like Maria Dominguez Lopez, lived in the United States prior to the detention, and been allowed to stay free of detention during previous interactions with the immigration court.

17. Denial of a bond hearing under section 1225(b)(2) creates a substantial risk of erroneous deprivation of Petitioner's interest in being free from arbitrary confinement pending resolution of his removal proceedings, particularly when the petitioner is not a flight risk or danger and has lived in the U.S. for a prolonged period. The value of an additional safeguard through a bond hearing to determine "whether continued detention is necessary to ensure presence at removal hearings and safety for the community is high.
18. Respondents' "generalized interest in ensuring noncitizens appear for their removal hearing and do not pose a risk to the communities in which they live" is extremely "diluted" in this case, because Maria Dominguez Lopez's detention has harmed her ability to appear for her immigration court proceedings, and does not pose a danger or flight risk. Further, any fiscal or administrative burdens Respondents may assert by having to provide a bond hearing are also diminished given the government has conducted such hearings for the past thirty years until a change in the agency's interpretation of the law.
19. Maria Dominguez Lopez is actually prejudiced by this violation because she remains in detention today, but she would likely be released if she received a bond hearing.
20. For these reasons, Maria Dominguez Lopez's ongoing detention is unconstitutional. She should be immediately released.

## **COUNT TWO**

### **Fifth Amendment Substantive Due Process**

21. Maria Dominguez Lopez realleges and incorporates by reference the allegations of fact set

forth in the preceding paragraphs.

22. Maria Dominguez Lopez’s ongoing detention violates his substantive due process rights because her liberty is being restricted without justification. *See Hensley v. Mun. Ct., San Jose Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241(c)(3).
23. 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).
24. Further, courts have recognized that immigrants who the government granted a limited form of immigration relief and allowed to live in the country for years “under the understanding that [they are] unlikely to be subject to enforcement proceedings” possess a cognizable liberty interest. *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at \*10-11 (W.D. Tex. Oct. 2, 2025) (finding a person who lived in the U.S. for twenty years, including thirteen years with deferred action, has a cognizable liberty interest) (quoting *Gamez Lira v. Noem*, No. 1:25-CV-00855-WJ-KK, 2025 WL 2581710, at \*3 (D.N.M. Sept. 5, 2025)).
25. Maria Dominguez Lopez has a fundamental interest in her liberty. The only permissible detention purposes under section 1226—preventing danger and flight risk—are not present here, unlawfully infringing upon Maria Dominguez Lopez’s liberty interest. *See Zadvydas*, 533 U.S. at 690–91; *Demore v. Kim*, 538 U.S. 510, 528 (2003).
26. Accordingly, Maria Dominguez Lopez’s continued detention is unconstitutional and she should be released.

### **COUNT THREE**

#### **Violation of the INA**

27. Maria Dominguez Lopez realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.
28. 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 and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under section 1226(a), unless they are subject to sections 1225(b)(1), 1226(c), or 1231.
29. 8 U.S.C. § 1225(b)(2) applies only to those seeking admission. Admission is “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). Maria Dominguez Lopez was not seeking to enter the country she has been physically present in for eleven years, and is not subject to detention under 8 U.S.C. § 1225(b)(2)
30. The continued application of section 1225(b)(2) to Maria Dominguez Lopez, resulting in her mandatory detention, violates the INA. This claim is raised solely to preserve further review.

#### **VII. PRAYER FOR RELIEF**

Wherefore, Maria Dominguez Lopez prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an order to show cause to be returned within three days;
3. Order that Maria Dominguez Lopez shall not be transferred outside of the District of Maryland while this habeas petition is pending;
4. Issue a Writ of Habeas Corpus requiring that Respondents release Maria Dominguez Lopez, or in the alternative, requiring a bond hearing with the burden on the government

within seven days;

5. Declare that Maria Dominguez Lopez's detention is unlawful;
6. Grant Maria Dominguez Lopez any preliminary relief to which he shows himself to be entitled;
7. Award Maria Dominguez Lopez attorney's fees and costs under the Equal Access to Justice Act, as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
8. Grant any other and further relief that this Court deems just and proper.

Dated: March 4, 2026

Respectfully submitted,

/s Sabitiyu A.Abou

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

I represent Petitioner Maria Dominguez Lopez, 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 this 4th day of March, 2026.

/s Sabitiyu A. Abou

Sabitiyu A Abou Esq