

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

Maria Loya Medina,
Petitioner,

Case No.: 2:26-cv-772

v.

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

JULIO HERNANDEZ, Seattle Field Office
Director, Immigration and Customs Enforcement
and Removal Operations ("ICE/ERO"); TODD
LYONS, Acting Director of U.S. Immigration and
Customs Enforcement ("ICE"); PAMELA BONDI,
Attorney General of the United States; BRUCE
SCOTT, Warden, Northwest ICE Processing Center
("NWIPC"); U.S. Immigration and Customs
Enforcement; Executive Office for Immigration
Review; and U.S. Department of Homeland
Security,
Respondents.

INTRODUCTION

1. Petitioner, Maria Loya Medina (“Ms. Loya”), has lived in the United States for more than two decades. She has a home in Oregon where she has lived for years with her husband and two children, both of whom are United States citizens. She has no criminal record. Yet, the Department of Homeland Security (“DHS”) has held her in executive detention for more than 55 days—all of which have been unlawful, and the immigration court denied her request for release on bond or conditional parole. The agency committed plain error in finding that Ms. Loya is ineligible for release on bond or conditional parole.

2. While out shopping for socks for her son to wear at his upcoming soccer match, Respondent DHS swarmed Ms. Loya in the parking lot of the sporting goods store and arrested her as part of Operation Black Rose—a DHS operation in which ICE agents make unprovoked, destabilizing community sweeps throughout Oregon. *M-J-M-A- v. Hermosillo*, 6:25-cv-02011-MTK, Dkt. 88 at 2 (D.Or. Feb. 27, 2026) (“ICE officers are casting dragnets over Oregon towns they believe to be home to agricultural workers, calling them ‘target rich.’”)

3. At first, DHS held Ms. Loya in so-called “mandatory detention” as an “applicant for admission” under 8 U.S.C. § 1225(b) in spite of two class actions adjudging that type of custody to be unlawful for people like Ms. Loya. Indeed, she was forced to file a petition for habeas corpus in this district court, which was granted on January 29, 2026. *Loya-Medina v. Noem*, 2:26-cv-00125-TMC, Dkt. 10 (W.D. Wash. Jan. 29, 2026). The district court ordered that Ms. Loya was entitled to a constitutionally fair hearing on her bond. *Id.* at 4.

4. On February 4, 2026, an Immigration Judge at the Tacoma Immigration Court held a hearing pursuant to the district court’s order. At the hearing—which lasted no more than 15 minutes—the IJ issued a “No Bond” order. The IJ concluded that Ms. Loya was a flight

1 risk and that there were *no* conditions, including the posting of bond, under which she could be
2 released to mitigate any perceived flight risk.

3 5. But that order was the product derived from a constitutionally deficient
4 hearing. Under the Due Process Clause of the Fifth Amendment, there are *no* circumstances in
5 which the IJ could have plausibly established that Ms. Loya posed a flight risk, or that she was
6 such an extreme flight risk that *no amount of* bond or set of conditions could possibly mitigate.
7 Not only that, but the IJ failed to consider the factors required to make a bond determination
8 under the Immigration and Nationality Act (“INA”) and its implementing regulations. *See* 8
9 U.S.C. § 1226(a). The Immigration Judge’s “no bond” order for flight risk subverts the statutory
10 design.

11 6. Not only did the hearing fail to meet the constitutional standard and fail to
12 comply with the statutory design, the IJ found *no* facts and provided *no* legal reasoning to
13 support the *de facto* order for mandatory detention. Instead, the IJ merely checked a box on a
14 boilerplate order form that said, “Flight Risk” and left it at that, thereby prolonging her unlawful
15 executive detention. The agency’s own guidance requires that IJs review several factors in
16 making bond determinations. *See Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006); *Matter*
17 *of R-A-V-P-*, 27 I. & N. Dec. 803, 805 (BIA 2020).¹

18 7. To restrain an individual’s liberty, the Due Process Clause of the Fifth
19 Amendment, the INA and agency rules all require the Government to do more than check boxes
20 or justify detention after-the-fact.

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22
23 ¹ Weeks later the IJ issued a post-appeal memorandum justifying his no bond order offering a
post-hoc rationalization..

8. The Court should grant the petition and order Ms. Loya's immediate release under reasonable conditions.

JURISDICTION

9. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 et seq.

10. This court has subject matter jurisdiction and may grant relief under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

11. This Court has jurisdiction to review bond hearings for errors of law, including as to whether the IJ properly concluded someone is a flight risk or danger to the community. *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024).

12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

13. Venue is proper because Petitioner is in Respondents' custody at the NWIPC in Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the judicial district in which Petitioners are currently in custody.

14. 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

1 substantial part of the events or omissions giving rise to the claims occurred in the Western
2 District of Washington.

3 **REQUIREMENTS OF 28 U.S.C. § 2241, 2243**

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

9 16. Courts have long recognized the significance of the habeas statute in
10 protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps
11 the most important writ known to the constitutional law of England, affording as it does a swift
12 and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S.
13 391, 400 (1963).

14 **PARTIES**

15 17. Petitioner Maria Loya Medina is 44 years old. She is a resident of Albany,
16 Oregon. She is currently detained in Respondents' custody at the NWIPC in Tacoma,
17 Washington.

18 18. Respondent Julio Hernandez is the Field Office Director for ICE's Seattle
19 Field Office. The Seattle Field Office is responsible for local custody decisions relating to
20 noncitizens charged with being removable from the United States, including the arrest,
21 detention, and custody status of noncitizens. The Seattle Field Office's area of responsibility
22 includes Alaska, Oregon, and Washington; thus, Hermosillo is a legal custodian of Petitioner.
23

19. Respondent Todd Lyons is the acting director of ICE, and he has authority over the actions of respondent Laura Hermosillo and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

20. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

21. Respondent Bruce Scott is employed by the private corporation The GEO Group, Inc., as Warden of the NWIPC, where Petitioner is detained. He has immediate physical custody of Petitioner.

22. Respondent ICE is the federal agency responsible for custody decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens.

23. Respondent DHS is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

24. Respondent EOIR is the federal agency that has authority over the actions of the immigration court.

25. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

Detention Authority under the Immigration & Nationality Act

26. The Immigration and Nationality Act authorizes the DHS to detain noncitizens who are in removal proceedings. This case concerns the detention provision at 8 U.S.C. § 1226(a) and its implementing regulations.

1 27. To be constitutional, civil immigration detention must be non-punitive.
2 *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (2001). The government may not detain a noncitizen
3 unless needed to prevent flight or danger to society. *Id.* Due process requires both that
4 immigration detention be “‘reasonabl[y] relat[ed]” to its purposes of preventing flight and
5 danger to the community, and that it be accompanied by adequate procedures to ensure those
6 purposes are met. *Id.* at 690-91 (citation omitted). *Accord Demore v. Kim*, 538 U.S. 510, 527
7 (2003).

8 28. In making release decisions under § 1226(a), the regulations provide that
9 a noncitizen must demonstrate he or she does not pose a danger to property or persons, and that
10 he or she is “likely to appear for any future proceeding.” 8 C.F.R. § 1236.1(c)(8); *see also*
11 *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006).

12 29. The Government must consider a range of evidence, some of which is
13 objective, and some of which may require the Government to evaluate the credibility of the
14 noncitizen and other witnesses. The factors the Government should consider are:

- 15 a) whether the noncitizen has a fixed address in the United States;
- 16 b) the noncitizen’s length of residence in the United States;
- 17 c) the noncitizen’s family ties in the United States, and whether they may entitle
18 the noncitizen to reside permanently in the United States in the future;
- 19 d) the noncitizen’s employment history;
- 20 e) the noncitizen’s record of appearance in court;
- 21 f) the noncitizen’s criminal record, including the extensiveness of criminal
22 activity, the recency of such activity, and the seriousness of the offenses;
- 23 g) the noncitizen’s history of immigration violations;

1 h) any attempts by the noncitizen to flee prosecution or otherwise escape from
2 authorities; and,

3 i) the noncitizen's manner of entry to the United States.

4 *Matter of Guerra*, 24 I&N Dec. at 38; *Matter of R-A-V-P-*, 27 I&N Dec. at 805.

5 30. For noncitizens who may present some level of flight risk, the Government
6 must also consider the noncitizen's financial ability to pay a bond. *Hernandez v. Sessions*, 872
7 F.3d 976 (9th Cir. 2017). The Government should consider whether the noncitizen may be
8 released on alternative conditions of supervision, alone or in combination with a lower bond
9 amount, that are sufficient to mitigate flight risk. *Id.* at 986-87.

10 31. These factors all relate to the core inquiry in a custody determination
11 proceeding before either DHS or EOIR. If the noncitizen is not a danger to the community, the
12 DHS or EOIR must consider whether the noncitizen is a flight risk and, if so, what are the
13 conditions of release that will best ensure the noncitizen will appear at future proceedings.

14 32. Because of the liberty interest, there are seldom circumstances where no
15 combination of conditions, including bond, could mitigate any flight risk. *See, e.g., Zadvydas v.*
16 *Davis*, 533 U.S. 678, 690 (2001) (recognizing the fundamental liberty interest at stake in civil
17 detention); *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (requiring consideration
18 of financial circumstances and alternative release conditions to ensure detention is not used
19 when less restrictive means can satisfy the government's interest); *Singh v. Holder*, 638 F.3d
20 1196, 1203 (9th Cir. 2011) (requiring the government to prove by clear and convincing evidence
21 that no conditions of release can reasonably assure future appearance). Detention without the
22 possibility of posting bond for flight risk is, as a matter of constitutional law, rare.
23

Release/Custody Determinations by DHS & IJs

33. Individuals subject to the Government's § 1226(a) detention authority are entitled to a release determination made by DHS; if not released by DHS, they are also entitled to a custody redetermination made by an immigration judge. 8 C.F.R. § 1236.1(c)(8); 8 C.F.R. § 1236.1(d).

34. When purporting to assert initial detention over a noncitizen, DHS must make a custody (or release) determination. 8 C.F.R. § 1236.1(c)(8).

35. DHS documents its decision on ICE Form I-286, Notice of Custody Determination.

36. DHS may release the noncitizen on their own recognizance. 8 U.S.C. § 1226(a)(2)(B) (referring to "conditional parole"); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the INS used the phrase "release on recognizance" as another name for "conditional parole" under 1226(a)"); ICE Form I-220A Order of Release on Recognizance.²

37. DHS may also release the noncitizen on the posting of a bond of at least \$1,500. 8 U.S.C. § 1226(a)(2)(A); 8 C.F.R. § 103.6; ICE Form I-352, Immigration Bond.³

38. Noncitizens are entitled to a meaningful opportunity to be heard on their custody status before DHS. 8 C.F.R. § 1236.1(c)(8). DHS is required to engage in a "deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Gonzalez v. Joyce*, 2025 WL 2961626, *5 (S.D.N.Y. 2025). "That the Government may believe it has a valid reason to detain

² Available at https://www.ice.gov/doclib/detention/checkin/I_220A_OREC.pdf (last visited Feb. 27, 2026)

³ Available at <https://www.ice.gov/doclib/forms/i352.pdf> (last visited Feb 27, 2026)

1 [a noncitizen] does not eliminate its obligation to effectuate the detention in a manner that
2 comports with due process.” *E.A.T.-B. v. Wamsley*, 795 F.Supp.3d 1316, 1322 (W.D. Wash.
3 2025). The availability of custody redetermination proceedings by immigration judges does not
4 relieve the DHS from their obligation to follow the law. Any suggestion that “government
5 agents may sweep up any person they wish without consideration of dangerousness or flight
6 risk, so long as the person will, at some unknown future date, be allowed to ask some other
7 official for his or her release, offends the ordered system of liberty that is the pillar of the Fifth
8 Amendment.” *Gonzalez*, 2025 WL 2961626 at *5.

9 39. If DHS does not grant release, a noncitizen is entitled to a meaningful
10 opportunity to be heard on their custody status before an immigration judge. Immigration judges
11 may also grant bond in this custody redetermination hearing. 8 C.F.R. § 1236.1(d); *W.T.M. v.*
12 *Bondi*, 2026 WL 262583, *1 (W.D. Wash. 2026); *Garcia v. Hyde*, —F.Supp.3d—, 2025 WL
13 3466312, *8-9 (D.R.I. 2025).

14 40. The custody decisions—and the proceedings in which those decisions are
15 made before the DHS or EOIR—must be constitutionally adequate and comply with the statute
16 and regulations. *W.T.M.*, 2026 WL 262583 at *1; *Garcia*, 2025 WL 3466312, *8. For a
17 noncitizen otherwise eligible for release under § 1226(a), custody proceedings and decisions
18 may not be arbitrary, irrational, irrelevant or unreasonable. Custody proceedings and decisions
19 must comport with the interest in being free from physical detention which is “most elemental
20 of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

FACTUAL BACKGROUND

Respondents' Detention and Deportation Policies

41. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

42. In late May, Respondent Secretary Noem and White House Deputy Chief of Staff Stephen Miller met with ICE leadership, setting a new arrest quota of 3,000 arrests per day and reportedly threatening job consequences if officials failed to meet arrest quotas.⁴

43. On May 28, Miller confirmed that "[u]nder President Trump's leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day."⁵

⁴ Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant Crackdown*, The Wall Street Journal (June 9, 2025), <https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877>; Julia Ainsley, et al., *A sweeping new ICE operation shows how Trump's focus on immigration is reshaping federal law enforcement*, NBC News (June 4, 2025), <https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigration-reshape-federal-lawenforcement-rcna193494>; Brittany Gibson & Stef W. Kight, *Scoop: Stephen Miller, Noem tell ICE to supercharge immigration arrests*, Axios (May 28, 2025), available at <https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller>.

⁵ Hannity, *Stephen Miller says the admin wants to create the strongest immigration system in US History*, FOX NEWS (May 28, 2025), available at <https://www.foxnews.com/video/6373591405112> (last visited Aug. 24, 2025).

1 44. Following the directive from Noem and Miller, ICE agents were instructed
 2 in an e-mail to “turn the creativity knob up to 11” and aggressively “push the envelope” in
 3 arrests, including by pursuing “collaterals”—individuals who by definition would not have
 4 warrants.⁶ As another e-mail put it: “If it involves handcuffs on wrists, it’s probably worth
 5 pursuing.”⁷

6 45. The overriding message, communicated by and to Respondents, is that
 7 agents and officers carrying out immigration operations on the ground must prioritize arrest
 8 numbers, regardless of the law. As one ICE official put it earlier this year, all that matters is
 9 “numbers, pure numbers, [q]uantity over quality.”⁸

10 46. The District Court for the District of Oregon recently found that DHS
 11 implemented these practices in Oregon. *M-J-M-A- v. Hermosillo*, 6:25-cv-02011-MTK, Dkt. 88
 12 at 2 (D.Or. Feb. 27, 2026). The Court found that “[t]o serve the President’s demands for 3,000
 13 immigration arrests each day nationally” ICE officers deployed to Oregon communities and
 14 arrested an “extraordinary” number of Oregonians beginning in October 2025. *Id.* at 5.

17 ⁶ José Olivares, *US immigration officers ordered to arrest more people even without warrants*,
 18 *The Guardian* (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

19 ⁷ José Olivares, *US immigration officers ordered to arrest more people even without warrants*,
 20 *The Guardian* (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

21 ⁸ Jennie Taer, *Trump admin’s 3,000 ICE arrests per day quota is taking focus off criminals and ‘killing morale’: insiders warn*, *NY Post*, June 17, 2025, <https://nypost.com/2025/06/17/us-news/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killing-morale-insiders/>, <https://perma.cc/DB9R-MJUC> (last visited Oct. 15, 2025) (“The Trump administration’s mandate to arrest 3,000 illegal migrants per day is forcing ICE agents to deprioritize going after dangerous criminals and targets with deportation orders, insiders warn. Instead, federal immigration officers are spending more time rounding up people off the streets, sources said. ‘All that matters is numbers, pure numbers. Quantity over quality,’ one Immigration and Customs Enforcement insider told *The Post*.”).

47. The District Court for the District of Oregon found that “ICE officers traveled to Portland, Oregon from their usual duty stations in Arizona, California, Colorado, Minnesota, and Nebraska...to come to Oregon to assist with street arrests and conduct at-large enforcement—finding, locating, and targeting people that are undocumented here in the Portland, Oregon, or Washington area. *Id.* at 6. Enforcement operations in Oregon during this time were variously called “Operation Fortifying the Border,” “Operation Black Rose,” “Operation Portland Safe,” and “Operation Portland Sweep.” *Id.*

Petitioner's Background

48. Petitioner Maria Trinidad Loya Medina is a mother of two U.S. citizen children and the primary caregiver for her husband, who requires ongoing care and treatment due to a stroke. Petitioner's Declaration in Support of Petition for Writ of Habeas Corpus ("Petitioner's Decl.") ¶ 3. Ms. Loya's country of origin and citizenship is Mexico.⁹ Petitioner's Decl. ¶ 2. In or around January 2005, Ms. Loya entered the U.S. without inspection.¹⁰ Petitioner's Decl. ¶ 8. She has resided in the U.S. for approximately 21 years and has built a life for herself and her family in Albany, Oregon, where she has lived for the past seven years. Petitioner's Decl. ¶ 7. Notably, Ms. Loya has no criminal legal history.

Petitioner's Arrest

49. On January 10, 2026, Ms. Loya visited a local sporting goods store in Albany, Oregon to purchase socks her son needed for a soccer game. Petitioner’s Decl. ¶ 9; Declaration of C.H. in Support of Petition for Writ of Habeas Corpus (“C.H. Decl.”) ¶ 2. As she

⁹ Declaration of José G. Miranda (“Miranda Decl.”), Ex. 1; Petitioner’s Mexico Passport as (issued on October 4, 2021).

¹⁰ Miranda Decl., Ex. 2; Petitioner's DHS Form I-862, Notice to Appear in Removal Proceedings (dated January 10, 2026).

1 sat in her car, she was surrounded by several ICE agents, some of whom were masked.
2 Petitioner's Decl. ¶ 10.

3 50. The men shouted that they were looking for someone by the name of
4 "Maria Medina"—a name Ms. Loya does not regularly use. *Id.* ¶ 12. Ms. Loya video-called her
5 16-year-old son to let him know what was happening. *Id.* ¶ 14; C.H. Decl. ¶ 3.

6 51. The ICE agents continued to yell at Ms. Loya to exit her vehicle, presenting
7 her with no judicial or administrative warrant, nor other paperwork. Petitioner's Decl. ¶ 13. Ms.
8 Loya invoked her Fourth and Fifth Amendment rights by pressing a "red card" against her car
9 window.¹¹ *Id.*

10 52. In response, the men banged on Ms. Loya's car windows and continued
11 shouting. *Id.* ¶ 14.

12 53. An agent who spoke Spanish instructed Ms. Loya to show them an
13 identification document. *Id.* ¶ 15. Ms. Loya complied and pressed her Oregon state driver's
14 license against her car window. *Id.* The agent looked at the license and stated that she was the
15 person they were seeking. *Id.* The situation escalated, and the men threatened to break Ms.
16 Loya's car window. *Id.*

17 54. Ms. Loya gestured to the men to calm down, and just as she was unlocking
18 her door an agent shattered her passenger-side rear window. *Id.* ¶ 16; C.H. Decl. ¶ 6.

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21 ¹¹ "Red cards" are know-your-rights cards distributed by legal service providers to immigrant
22 communities that explain rights and protections available to all people in the United States,
23 regardless of immigration status. The cards include language meant to enable noncitizens to
invoke their Fourth Amendment right against unreasonable search and seizure, and Fifth
Amendment right to remain silent. *See, e.g.,* Immigrant Legal Resource Center, Red Cards /
Tarjetas Rojas, <https://www.ilrc.org/redcards> (last visited Feb. 28, 2026).



55. Ms. Loya unlocked and opened her car door, extending her hands to surrender. Petitioner's Decl. ¶ 16.

56. The numerous agents then arrested Ms. Loya and placed her in their vehicle. *Id.* ¶ 17.



57. As Respondents transported Ms. Loya to ICE custody at the Portland field office, the Spanish-speaking agent apologized for arresting her, explaining that he was mandated to do so by the President. *Id.*; C.H. Decl. ¶ 7.

58. Respondents subsequently transferred Ms. Loya to the Northwest ICE Processing Center in Tacoma, Washington, where she has remained detained since.¹² Petitioner's Decl. ¶17; C.H. Decl. ¶ 7.

Petitioner's Prior Habeas Proceedings

59. Beginning in July, 2025, Respondent DHS adopted a policy of mandatory detention directly at odds with the INA.¹³ *Maldonado-Bautista v. Santacruz*, —F.Supp.3d—, 2025 WL 3713987 *12 (C.D. Cal. 12/28/2025).

60. Upon on her arrest, the DHS failed to conduct a meaningful, individualized custody determination as required by 8 U.S.C. § 1226(a) and § 8 C.F.R. § 1236.1(c)(8). While Respondents issued Ms. Loya a Form I-286, consistent with its extra-regulatory policy for applicants for admission, this was a pro forma exercise that lacked any actual individualized assessment as required by law.¹⁴

61. This policy was later adopted by EOIR in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and subsequently deemed unlawful. *Rodriguez Vasquez v. Bondi*, 779 F.Supp. 3d 1239 (W.D. Wash. 2025); *Maldonado-Bautista v. Santacruz*, —F.Supp. 3d—, 2026 WL 468284, *10 (C.D. Cal. Feb. 18, 2026).

62. On January 14, 2026, Ms. Loya filed a petition for writ of habeas corpus arguing that her detention violated the U.S. Constitution and the INA, and that she was entitled to a bond hearing under 8 U.S.C. § 1226(a) as a member of the Bond Denial Class certified in

¹² Miranda Decl., Ex. 3; Petitioner's DHS Form I-286 Notice of Custody Determination (dated January 10, 2026).

¹³ U.S. Immigr. & Customs Enf't, *ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025), <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (last visited Mar. 6, 2026).

¹⁴ *Id.*

1 *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025 and *Maldonado*
2 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). *Loya-Medina v. Noem*, 2:26-
3 cv-00125-TMC, Dkt. 10 (W.D. Wash. Jan. 29, 2026).¹⁵

4 63. On January 29, 2026, United States District Judge Tiffany M. Cartwright
5 granted Ms. Loya's habeas petition.¹⁶

6 64. The Court declared that "Loya-Medina has thus shown that her mandatory
7 detention under § 1225(b) violates the INA, entitling her to habeas relief."¹⁷

8 65. The Court ordered Respondents to either release Ms. Loya or provide her
9 a bond hearing under 8 U.S.C. § 1226(a).¹⁸

10 **Petitioner's Post-Habeas IJ Custody Proceeding & Agency Decision**

11 66. DHS, a respondent in the habeas action, did not make an initial custody
12 determination under 8 U.S.C. § 1226(a) as required by regulation. 8 C.F.R. § 1236.1(c)(8).

13 67. Instead, on February 4, 2026, six days after this Court's order, Ms. Loya
14 was provided a bond hearing before Immigration Judge John Odell at the Tacoma Immigration
15 Court.¹⁹ She was represented by counsel Benjamin Cornell of Ascent Legal, PLLC.²⁰ While a
16 Spanish-language interpreter was present at the hearing, the interpreter provided minimal real-

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19 ¹⁵ Miranda Decl., Ex. 6; Petitioner's Petition for Writ of Habeas Corpus, Case No. 2:26-cv-00125
20 (filed on January 14, 2026).

21 ¹⁶ Miranda Decl., Ex. 7; U.S. District Court Judge Tiffany M. Cartwright's Order Granting
22 Petitioner's Petition for Writ of Habeas Corpus, Case No. 2:26-cv-00125 (dated January 29,
23 2026).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Miranda Decl., Ex. 8; Petitioner's Notice of Habeas Corpus Bond Hearing before the Tacoma
Immigration Court (dated January 29, 2026).

²⁰ *Id.*

1 time interpretation, and Ms. Loya did not comprehend most of what was stated during the
2 proceedings. Petitioner's Decl. ¶ 18.

3 68. The proceeding was not audio-recorded and no transcript was created.²¹

4 69. Ms. Loya's hearing lasted less than fifteen minutes. Petitioner's Decl. ¶ 18.

5 70. Ms. Loya's counsel submitted a 69-page bond evidence packet to the
6 immigration court, which was received into the record.²²

7 71. The record established the following uncontested facts: Ms. Loya has a
8 fixed address in the United States; she has resided in the country for 21 years; she has strong
9 family ties here, including her husband and U.S. citizen children; she may be eligible for relief
10 that would entitle her to remain in the United States permanently, she has a consistent
11 employment history; she has no criminal record; and, she has never attempted to flee
12 prosecution or escape from authorities.²³ The record also showed that decades ago, Ms. Loya
13 was turned around at the U.S. Mexico border and then she crossed the border without
14 inspection.²⁴ Petitioner's Decl. ¶ 19.

15 72. The bond evidence packet further included documentation, such as: proof
16 of Ms. Loya's identity and continuous residence in the U.S.; letters from her husband and
17 teenage son about how her absence impacts them; her 2008 marriage certificate; U.S. birth
18 certificates for her two children; her son's high school transcript reflecting straight-A grades;
19 medical records documenting: a stroke her husband experienced in December 2025, his
20

21 ²¹ Miranda Decl., Ex. 11; Email from Petitioner's counsel (dated February 9, 2026) to the
22 Tacoma Immigration Court requesting a digital audio recording of the bond hearing, and a reply
23 from the immigration court (dated February 12, 2026) stating that no such recording exists.

²² Miranda Decl., Ex. 9; Petitioner's 69-page evidence packet in support of her release on bond
as submitted to the Tacoma Immigration Court (filed on February 3, 2026).

²³ *Id.*

²⁴ *Id.*

1 subsequent heart surgery, and ongoing physical and occupational therapy needs; letters from
2 educators, pastors, friends, and family attesting to Ms. Loya's community ties; IRS tax returns
3 for multiple years; and the rental agreement for her family home in Albany, Oregon where she
4 had resided for six years before her arrest.²⁵

5 73. These facts and evidence are uncontested. The DHS did not contest them,
6 as the only evidence DHS entered into the record was DHS Form I-213.²⁶

7 74. At the conclusion of the hearing, the Immigration Judge issued the
8 following written decision:

9 **Order:**

10 [X] ORDERED that the request for a change in custody status be
denied. No bond.

11 [X] Flight Risk [...]

[X] OTHER: Conditional release is: denied

12 [X] OTHER: Ability to pay considered.²⁷

13 75. The written decision is the *only* contemporaneous record of the agency
14 action because there is no recording or transcript of the hearing.²⁸

15 76. The decision indicated that Ms. Loya waived appeal, however, at the time
16 of the hearing she did not understand the meaning of this waiver. Petitioner's Decl. ¶ 19. After
17 the hearing, Ms. Loya spoke with her counsel through an interpreter and, for the first time, came
18 to understand what an appeal entailed. *Id.* ¶ 21. She expressed to her counsel that she wished to
19 appeal the bond decision. *Id.*

20
21
22 ²⁵ *Id.*

²⁶ Miranda Decl., Ex. 4; DHS Form I-213 (dated January 10, 2026).

23 ²⁷ Miranda Decl., Ex. 10; Immigration Judge John Odell's Order denying Petitioner's request for
release on bond (dated February 4, 2026).

²⁸ The IJ issued a written memorandum on /DATE *after* Ms. Loya filed her appeal to the BIA.

1 77. Ms. Loya's counsel then promptly withdrew the waiver with the
2 immigration court on February 17, 2026,²⁹ and filed an administrative appeal of the
3 Immigration Judge's no-bond decision on February 23, 2026.³⁰ *Id.*

4 78. On February 26, 2026, the IJ issued a post-hoc rationalization of the No
5 Bond order because Ms. Loya appealed the decision.

6 **Petitioner's Continued Detention and the Futility of the Administrative Appeal**

7 79. The Board of Immigration Appeals (BIA) is an administrative body within
8 the Executive Office for Immigration Review, a Justice Department component. 8 C.F.R. §
9 1003.1(d)(1).

10 80. The BIA adjudicates administrative appeals of Immigration Judge bond
11 decisions. 8 C.F.R. § 1236.1(d)(3).

12 81. The BIA process is long, and the lengthy delays in adjudication often moot
13 pending bond appeals before they are adjudicated.

14 82. In 2024, EOIR data showed an average processing time of 204 days for
15 bond appeals. *Rodriguez v. Bostock*, 802 F. Supp. 3d 1297, 1307 (W.D. Wash. 2025). Between
16 2015 and 2024, bond appeal cases took a year or longer to resolve. *Id.*

17 83. During the time it takes the BIA to resolve the bond appeal, most detainees
18 claims are mooted by adjudications in their removal proceedings. *Id.*

19
20
21
22 ²⁹ Miranda Decl., Ex. 12; Petitioner's Notice of Withdrawal of Waiver for Appeal of Bond
Determination as submitted to the Tacoma Immigration Court (filed on February 17, 2026).

23 ³⁰ Miranda Decl., Ex. 13; Petitioner's Board of Immigration Appeals Filing Receipt for her
appeal of Immigration Judge John Odell's Order denying her request for release on bond (filed
on February 23, 2026).

84. All immigration courts, including the immigration court that heard Ms. Loya's habeas-ordered bond hearing, are "equipped with recording devices and routinely record merits hearings." *Singh*, 638 F.3d at 1209.

85. However, as a matter of policy, “[b]ond hearings are seldom recorded and are not routinely transcribed.” BIA Practice Manual, Chap. 7.3(b)(ii) (last revised Nov. 14, 2022).

86. There is irreparable harm caused by Petitioner's unnecessary detention. Petitioner's spouse had a stroke in December 2025 and heart surgery after that. Petitioner's 16-year-old son has had to take on the role of parent to his younger sibling because his mother (the Petitioner) is detained and his father is recovering from surgery.

87. Petitioner's daughter has been diagnosed with depression and often refuses to eat because of the family separation.

88. Petitioner's son's mental health is also suffering, because he has to care for his younger sibling and ailing father while balancing a rigorous academic schedule.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Procedural Due Process

Failure by DHS to conduct individualized determination

(Against Respondents Hermosillo, DHS, Lyons)

89. Petitioner restates and realleges all paragraphs as if fully set forth here.

90. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within

1 the United States, including [non-citizens], whether their presence here is lawful, unlawful,
2 temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

3 91. Due process requires that government action be rational and non-arbitrary.
4 *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

5 92. While the government has discretion to detain individuals under 8 U.S.C.
6 § 1226(a), this discretion is not “unlimited” and must comport with constitutional due process.
7 *See Zadvydas*, 533 U.S. at 698.

8 93. Under the Due Process Clause, immigration detention must always “bear[]
9 a reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S.
10 at 527 (quoting *Zadvydas*, 533 U.S. at 690).

11 94. Petitioner’s detention does not bear a “reasonable relation” to either
12 preventing flight risk or preventing danger to the community.

13 95. Respondents’ failure to conduct an individualized custody determination
14 and provide an opportunity for Petitioner to be heard in that process prior to or contemporaneous
15 with Petitioner’s detention violates her due process rights.

16 COUNT TWO

17 Violation of Fifth Amendment Right to Procedural Due Process

18 Failure by Immigration Court to conduct fair custody redetermination

19 (Against Respondents EOIR, Bondi)

20 96. Petitioner restates and realleges all paragraphs as if fully set forth here.

21 97. “Freedom from imprisonment—from government custody, detention or
22 other forms of physical restraint—lies at the heart of the liberty that [Due Process] Clause
23 protects.” *Zadvydas*, 533 U.S. at 690.

98. Under the Due Process Clause, immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at 527 (quoting *Zadvydas*, 533 U.S. at 690).

99. Petitioner's detention does not bear a "reasonable relation" to either preventing flight risk or preventing danger to the community.

100. The Immigration Judge's failure to provide a basis for his conclusion of "no bond"—a *de facto* order of mandatory detention—violates the Petitioner's due process rights. There are no circumstances in which the IJ could plausibly establish that the Petitioner posed a flight risk. The IJ only provided a reasoned decision in a post hoc fashion, weeks after he ordered no bond, in an effort to subvert Ms. Loya's appeal to the BIA.

101. Moreover, as applied to the facts here, Ms. Loya was entitled as a matter of due process, to a contemporaneous recording or transcript of the bond proceedings. The Respondents have previously been found to have violated her constitutional and statutory rights by unlawfully depriving her of an individualized release decision. Accordingly, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT THREE

Violation of the Immigration and Nationality Act and Bond Regulations –

Unlawful Denial of Release on Bond

(Against all Respondents)

102. Petitioner restates and realleges all paragraphs as if fully set forth here.

103. Section 1226(a) is the statutory authority for detaining Ms. Loya “pending a decision on whether [she] is to be removed from the United States.” It affords her a right to a

1 fair, individualized bond hearing. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Matter of*
2 *Guerra*, 24 I&N Dec. 37 (BIA 2006).

3 104. The DHS has failed entirely to provide a reasoned basis for the exercise of
4 its detention authority.

5 105. The Immigration Judge has failed to provide any facts or probative and
6 reasonable basis for the IJ's "no bond" determination.

7 106. Respondents have violated §1226(a) and its implementing regulations by
8 detaining Petitioner since her arrest without providing her a fair, individualized release
9 determination that the statute and regulations mandate.

10
11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner respectfully requests this Court grant the following:

- 13 1. Assume jurisdiction over this matter;
- 14 2. Issue an Order to Show Cause ordering Respondents to show cause why this
15 Petition should not be granted within three days;
- 16 3. Declare that Petitioner's detention violates the Due Process Clause of the Fifth
17 Amendment, the INA, and the implementing regulations;
- 18 4. Declare that Respondent EOIR violated Petitioner's constitutional and statutory
19 rights by failing to record the bond hearing and failing to provide any
20 contemporaneous decision explaining the results;
- 21 5. Issue a Writ of Habeas Corpus ordering Respondents to immediately release
22 Petitioner from custody;
- 23

6. In the alternative, issue an order compelling Respondent DHS to provide Petitioner an individualized determination—and a meaningful opportunity for her to be heard in the determination process—of her eligibility for release within three days;
7. In the alternative, conduct a hearing before this Court to determine whether Petitioner presents a flight risk or danger that justifies continued detention;
8. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
9. Grant any further relief this Court deems just and proper.

Dated: March 6, 2026.

s/ Stephen W Manning

Stephen W Manning, OSB No. 013373*
stephen@innovationlawlab.org

s/ Jose G. Miranda

Jose G. Miranda, NYSB No. 5714969*
jmiranda@innovationlawlab.org

INNOVATION LAW LAB
333 SW 5th Avenue
Suite 200
Portland OR 97204
(503) 922-3042

s/ Matt Adams

Matt Adams, WSBA No. 28287
matt@nwirp.org

NORTHWEST IMMIGRANT
RIGHTS PROJECT
615 Second Ave., Suite 400
Seattle, WA 98104
(206) 957-8611

Attorneys for Ms. Loya

**Motion for Pro Hac Vice Forthcoming*