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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Laura Beatriz Herrera Madrigal,
Petitioner,

v.

Kristi Noem, Secretary of the United States
Department of Homeland Security, in her official
capacity; **Sirce Owen**, Acting Director of Executive
Office for Immigration Review, in her official capacity;
Eric Rokosky, Warden of the Eloy Detention Center,
in his official capacity,
Respondents.

Case No.

Agency No. 

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

INTRODUCTION

The Respondents are unlawfully detaining Petitioner Laura Beatriz Herrera Madrigal, at the Eloy Detention Center, due to the Department of Homeland Security (DHS) recently changed its long-standing position with regard to the status of mandatory detention. *See*, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission filed herewith as Exhibit 1. The Board of Immigration Appeals (BIA) issued a precedential decision on September 5, 2025, holding that all

1 noncitizens present in the United States without admission – no matter how long they
2 have resided here – are still “applicants for admission” under 8 U.S.C. § 1225(a) and
3 not entitled to bond hearings because they are subject to mandatory detention under §
4 1225(b)(2)(A). *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) filed
5 herewith as Exhibit 2.
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7 But this interpretation of the Immigration and Naturalization Act (INA) violates
8 both procedural and substantive Fifth Amendment protections, ignores the plain
9 statutory language of both § 1225 and § 1226, and is contrary to numerous recent Federal
10 Court decisions in this District that have rejected these exact arguments. *See e.g.*
11 10/3/2025 Order entered in *Francisco Echevarria v. Pam Bondi, et al.*, CV-25-03252-
12 PHX-DWL (ESW), (D. Ariz. 10/3/2025), filed herewith as Exhibit 3.
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14 Here, Respondents’ reliance on *Yajure-Hurtado* to justify Petitioner’s continued
15 detention without a bond hearing is legally and factually misplaced. Petitioner has lived
16 in the United States continuously since August 31, 2021 and is not a recent entrant or
17 arriving alien. *See Declaration of Counsel in Support of Petition for Writ of Habeas*
18 *Corpus*, filed herewith as Exhibit 6.
19

20 Further, when Respondents initiated removal proceedings, the Notice to Appear
21 classified Petitioner as an “alien present in the United States,” rather than as an “arriving
22 alien,” notwithstanding that option being available on the form. *See Petitioner’s Notice*
23 *to Appear*, filed herewith as Exhibit 5. This designation is consistent with the
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1 government's own treatment of Petitioner as a non-arriving noncitizen subject to
2 detention under § 1226, not mandatory detention under § 1225.

3
4 In addition to BIA decisions not being binding precedent upon this Court, the
5 Supreme Court decision last year in *Loper Bright Enterprises v. Raimondo*, 603 U.S.
6 369, 400 (2024), made clear that federal courts must independently interpret statutes and
7 no longer defer under so-called "Chevron deference." This Court is therefore in the best
8 position to determine whether the Respondents are misinterpreting the relevant federal
9 statutes and improperly denying alien detainees bond hearings on the grounds that they
10 are all subject to mandatory detention under § 1225(b)(2)(A). The petition for writ of
11 habeas corpus should be granted.
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14 JURISDICTION & CUSTODY

15 1. Petitioner Laura Beatriz Herrera Madrigal, is in the physical custody of
16 Respondents and Immigration and Customs Enforcement (ICE), an agency within the
17 Department of Homeland Security.
18

19 2. Petitioner is currently detained at Eloy Detention Center and is under
20 the direct control of Respondents and their agents.
21

22 3. This action arises under the Constitution of the United States and 8
23 U.S.C. § 1101 et seq.
24

25 4. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of
26 the United States Constitution, 28 U.S.C. § 1331, and the common law. This Court may
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1 grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. §
2 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

3
4 5. Congress has preserved judicial review of challenges to immigration
5 detention. *See Jennings v. Rodriguez*, 583 U.S. 122, 130-131 (2018) (holding that 8
6 U.S.C. §§ 1226(e) and 1252(b)(9) do not bar review of challenges to prolonged
7 immigration detention).

8
9 6. The Court must grant the petition for writ of habeas corpus or order
10 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28
11 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return
12 “within three days unless for good cause additional time, not exceeding twenty days, is
13 allowed.” *Id.*

14
15 7. The Court has inherent power to release the petitioner pending review
16 of his petition. *See Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986).

17 VENUE

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19 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410
20 U.S. 484, 493- 500 (1973), venue lies in this Court, the federal judicial district in which
21 Petitioner is currently is in custody.

22
23 9. Venue is also properly in this Court pursuant to 18 U.S.C. § 1391(e)
24 because Respondents are employees, officers, and agencies of the United States.

25 PARTIES

1 10. Petitioner Laura Beatriz Herrera Madrigal was born on [REDACTED]
2 in Cuba. Petitioner is currently detained by ICE at Eloy Detention Center. *See*, ICE
3 Online Detainee Locator, filed herewith as Exhibit 6.
4

5 11. Respondent Kristi Noem is the Secretary of the U.S. Department of
6 Homeland Security ("DHS"). In this capacity, Respondent Noem is a legal custodian of
7 Petitioner. Respondent Noem is sued in her official capacity.
8

9 12. Respondent DHS is a federal executive agency responsible for, among
10 other things, enforcing federal immigration laws and overseeing lawful immigration to
11 the United States. Respondent DHS is a legal custodian of Petitioner.
12

13 13. Respondent Eric Rokosky is the Warden of the Eloy Detention Center.
14 Respondent Rokosky is a legal custodian of Petitioner. Respondent Rokosky is sued in
15 his official capacity.
16

17 14. Respondent Sirce Owen is the Acting Director of the Executive Office
18 for Immigration Review (EOIR), a federal agency within the U.S. Department of Justice.
19 Respondent EOIR is responsible for the administration of immigration courts, and
20 acceptance of forms and petitions related to adjudication of immigration claims, as well
21 as motions for bond. Respondent Sirce Owen is sued in her official capacity.
22

23 **STATEMENT OF FACTS**

24 15. Petitioner Laura Beatriz Herrera Madrigal was born on [REDACTED]
25 in Cuba.
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1 16. Petitioner entered the United States near Del Rio, Texas, on or about
2 August 30, 2021, without being admitted or paroled after inspection by an immigration
3 officer. *See*, Notice to Appear, filed herewith as Exhibit 5.
4

5 17. Respondents issued a notice to appear on November 17, 2022. *Id.* DHS
6 charged Petitioner with being subject to removal under Section 212(a)(6)(A)(i) of the
7 Immigration and Nationality Act. *Id.* This placed her in full removal proceedings under
8 section 240 of the Act.
9

10 18. The Notice to Appear identified her as an “alien present in the United
11 States” even though “arriving alien” was an alternate option. *Id.*
12

13 19. Petitioner has minimal criminal history consisting of a single
14 misdemeanor conviction arising from a personal dispute in August 2025. *See*,
15 Declaration of Counsel in Support of Petition for Writ of Habeas Corpus, filed herewith
16 as Exhibit 7. On October 22, 2025, Petitioner entered a plea of nolo contendere to a
17 reduced misdemeanor offense of destruction of property of another (\$25–\$250). *Id.* This
18 was an isolated incident, and Petitioner has taken steps toward rehabilitation. *Id.* In light
19 of her otherwise positive equities, this single misdemeanor does not support continued
20 detention or a finding that she poses a danger to the community. *Id.*
21
22

23 20. Petitioner applied for asylum, withholding of removal, and protection
24 under the Convention Against Torture. On November 5, 2025, an Immigration Judge
25 issued a decision on her applications for relief. *Id.* Although the Immigration Judge
26 found that Petitioner qualified as a “refugee” based on past persecution, the court denied
27
28

1 asylum as a matter of discretion. *Id.* However, the Immigration Judge granted Petitioner
2 withholding of removal to Cuba, finding that it is more likely than not that she would
3 face persecution if returned there. *Id.*

4
5 21. On November 21, 2025, Petitioner timely filed a Notice of Appeal with
6 the Board of Immigration Appeals (“BIA”) challenging the Immigration Judge’s
7 decision. That appeal remains pending. *See*, BIA Appeal Receipt, filed herewith as
8 Exhibit 8.

9
10 22. Petitioner is detained at the Eloy Detention Center where she remains
11 in custody. *See* ICE Online Detainee Locator Printout, filed herewith as Exhibit 6.

12
13 23. Petitioner has not been afforded an individualized bond hearing at
14 which he could demonstrate that he is neither a flight risk nor a danger to the community.

15 LEGAL FRAMEWORK

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17 24. The length of time that a petitioner has been living in the United States
18 is a constitutionally relevant consideration, because “once an alien enters the country,
19 the legal circumstance changes, for the Due Process Clause applies to all ‘persons’
20 within the United States, including aliens, whether their presence here is lawful,
21 unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It
22 is therefore reasonable to read these statutes “against [that] backdrop.” *See Hewitt v.*
23 *United States*, 145 S. Ct. 2165, 2173 (2025).

24
25 25. Due process thus requires “adequate procedural protections” to ensure
26 that the government’s asserted justification for a noncitizen’s physical confinement
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1 “outweighs the individual’s constitutionally protected interest in avoiding physical
2 restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

3
4 26. In the immigration context, the Supreme Court has recognized only
5 two valid purposes for civil detention: to mitigate the risks of danger to the community
6 and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a
7 noncitizen based on any other justification.
8

9 27. Congress has granted the Attorney General discretion to decide
10 whether to detain or release certain noncitizens pending a removal decision. *See* 8 U.S.C.
11 § 1226(a). The Attorney General has delegated that authority to IJs. 8 C.F.R. §§ 1003.19,
12 1236.1.
13

14 28. On July 8, 2025, DHS adopted a new policy on mandatory detention
15 for noncitizens who have been residing in the United States. *See*, ICE Memo: Interim
16 Guidance Regarding Detention Authority for Applications for Admission filed herewith
17 as Exhibit 1.
18

19 29. On September 5, 2025, the BIA entered the precedential decision
20 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), filed herewith as Exhibit 2,
21 which holds that all noncitizens who enter without inspection are “applicants for
22 admission” under 8 U.S.C. § 1225(a) and therefore subject to mandatory detention under
23 § 1225(b)(2), without regard for the length of time they have lived in the United States.
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26 30. The Ninth Circuit has held that § 1226(a) is the “default” detention
27 statute for aliens in removal proceedings “[8 U.S.C. §1226(a) (“Subsection A”)] is the
28

1 default detention statute for noncitizens in removal proceedings and applies to
2 noncitizens "[e]xcept as provided in [Subsection C]." 8 U.S.C. § 1226(a)." *Avilez v.*
3 *Garland*, 69 F. 4th 525, 529-530 (9th Cir. 2022). *Accord, Rodriguez Diaz v. Garland*,
4 83 F. 4th 1177, 1179 (9th Cir. 2023); *Sarr v. Scott*, 765 F. Supp. 3d 1091, 1095 (WD
5 Wash. 2025); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008). *Casas-*
6 *Castrillon v. DHS*, 535 F.3d 942 (9th Cir. 2008).

7
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9 31. In 1997, after Congress amended the INA through the Illegal
10 Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), EOIR and
11 the then-Immigration and Naturalization Service issued an interim rule to interpret and
12 apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and
13 Detention of Aliens," the agencies explained that:
14

15 Despite being applicants for admission, aliens who are
16 present without having been admitted or paroled (formerly
17 referred to as aliens who entered without inspection) ***will be***
18 ***eligible*** for bond and bond redetermination.

19 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that
20 individuals who had entered without inspection ***were*** eligible for consideration for
21 bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing
22 regulations.
23

24 32. Thus, for almost 30 years, all participants in the immigration system
25 have understood that people arrested inside the United States generally fall within §
26 1226 for detention purposes and are therefore required to receive a bond hearing upon
27 request—even if they initially entered the country without permission. *See Martinez v.*
28

1 *Hyde*, No. 25-11613, 2025 WL 2084238, at *4 n.9 (D. Mass. July 24, 2025) (citing the
2 United States Solicitor General’s representation to the Supreme Court at oral argument
3 that “DHS’s long-standing interpretation has been that 1226(a) applies to those who
4 have crossed the border between ports of entry and are shortly thereafter apprehended”).
5

6 33. This Court and numerous district courts have rejected that
7 interpretation, holding that § 1226(a) governs detention of long-present noncitizens
8 apprehended within the United States and requires access to bond hearings. *See*
9 *Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL (ESW) (D. Ariz. Oct. 3, 2025)
10 (collecting cases). While a minority of courts have adopted Respondents’ position, those
11 decisions are not binding and conflict with the statutory text, legislative history, and
12 overwhelming district court authority.
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15 34. In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM
16 (C.D. Cal. Feb. 18, 2026), the district court vacated *Matter of Yajure-Hurtado* under the
17 Administrative Procedure Act as resting on an identical, incorrect interpretation of law.
18 *See, Maldonado Bautista*, filed herewith as Exhibit 4. The court held that EOIR and
19 DHS may not “privilege an executive agency’s legal interpretation over a federal district
20 court’s legal interpretation,” reaffirming that “[i]t is the province and duty of the judicial
21 department to say what the law is.” The court further rejected the government’s reliance
22 on rhetoric about detaining the “worst of the worst,” where the record showed detainees
23 with no criminal history and strong community ties.
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1 35. Accordingly, the court restored Immigration Judges' jurisdiction to
2 conduct bond hearings under 8 U.S.C. § 1226(a) for individuals previously denied
3 custody redeterminations based solely on entry without inspection and ordered
4 classwide notice to ensure detainees are informed of their right to seek release on bond
5 or conditional parole.
6

7 36. Although the Fifth Circuit recently adopted a contrary interpretation in
8 *Buenrostro-Mendez v. Bondi*, No. 25-20496, slip op. at 9 (5th Cir. Feb. 6, 2026),
9 concluding that noncitizens who entered without inspection are subject to mandatory
10 detention under 8 U.S.C. § 1225(b)(2) based on an equivalence between the terms
11 "applicant for admission" and "seeking admission," that decision is not binding on this
12 Court and represents a minority view. Courts within this Circuit, including the court in
13 *Maldonado Bautista*, have rejected that interpretation as inconsistent with the INA's
14 structure distinguishing border inspection under § 1225 from interior detention under §
15 1226.
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19 37. Respondents continue to misclassify long-present noncitizens under §
20 1225(b)(2) and deny access to bond hearings in violation of statutory authority, binding
21 precedent, and due process. Petitioner's continued detention without a custody
22 redetermination hearing is therefore unlawful and warrants habeas relief.
23

24 **CLAIMS FOR RELIEF**

25 **FIRST CLAIM FOR RELIEF**

26 **Violation of Fifth Amendment – Substantive Due Process**
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1 38. Petitioner realleges and incorporates herein the allegations contained
2 in the preceding paragraphs of the petition as if fully set forth herein.

3 39. The Due Process Clause of the Fifth Amendment forbids the
4 government from depriving any “person” of liberty “without due process of law,”
5 including noncitizens. U.S. Const. amend. V.

6 40. Substantive due process asks whether a person’s life, liberty, or
7 property is deprived without sufficient purpose. There is no question that Petitioner has
8 been deprived of her liberty in this case.

9 41. The government’s continued detention of Petitioner is not supported
10 by any special interest or compelling justification that outweighs her liberty interest.

11 42. Petitioner’s ongoing detention when so many federal courts have held
12 that she is entitled to be considered for release upon posting an appropriate bond under
13 § 1226 constitutes prolonged detention and violates her substantive due process rights.

14 **SECOND CLAIM FOR RELIEF**
15 **Violation of Fifth Amendment Right - Procedural Due Process**
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17 43. Petitioner realleges and incorporates herein the allegations contained
18 in the preceding paragraphs of the petition as if fully set forth herein.

19 44. The Due Process Clause of the Fifth Amendment guarantees Petitioner
20 the right to procedural due process in seeking a bond redetermination and the
21 government may not unreasonably restrict this right.
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1 45. The government's knowing misclassification of Petitioner as an
2 "applicant for admission" under § 1225 in order to justify its argument for mandatory
3 detention is not supported by any special interest or compelling justification that
4 outweighs Petitioner's liberty interest.
5

6 46. The continued detention of Petitioner is not supported by any special
7 interest or compelling justification that outweighs her liberty interest.
8

9 **PRAYER FOR RELIEF**

10 **WHEREFORE** Petitioner Laura Beatriz Herrera Madrigal respectfully
11 requests that the Court grant the following relief:
12

- 13 1. Assume jurisdiction over this matter;
- 14 2. Order Respondents not to transfer Petitioner out of this District during the
15 pendency of these proceedings, to preserve jurisdiction;
- 16 3. Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order
17 Respondents to immediately release Petitioner from custody or, in the
18 alternative, order Respondents to provide Petitioner a bond hearing under 8
19 U.S.C. § 1226, and without regard to the holding of *Matter of Yajure Hurtado*,
20 29 I&N Dec. 216 (B.I.A. 2025), within three (3) business days;
- 21 4. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal
22 Access to Justice Act, 28 U.S.C. § 2412; and
- 23 5. Grant any further relief the Court deems just and proper.

24 Dated this 10th day of March, 2026.

25
26 By: /s/ Erica Sanchez
27 Erica Sanchez, Esq.
28 Shefer Law Firm, P.A.

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

I represent Petitioner Laura Beatriz Herrera Madrigal 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 10th day of March, 2026.

By: /s/ *Erica Sanchez*
Erica Sanchez, Esq.