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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Jenysei Garcia-Mejia

(A )

Petitioner,

v.

Kristi Noem, Secretary, Department of
Homeland Security, (DHS);
Pam Bondi, Attorney General; Executive
Office For Immigration Review (EOIR);
Sirce Owen, Acting Director of EOIR;
Eloy Immigration Court;
Todd Lyons, Senior Official Performing
the Duties of Director of Immigration and
Customs Enforcement, (ICE); Christopher
McGregor, Acting Phoenix Field Office
Director, Eric Rokowsky, Warden Eloy
Detention Center,

Respondents.

Case No.:

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

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

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention pursuant to the erroneous interpretation and application of the law by Respondents, as follows:

INTRODUCTION

1. Petitioner, Jenysei Garcia-Mejia, brings this petition for a writ of habeas corpus to seek enforcement of her rights. Petitioner is in the physical custody of Respondents at the **Eloy Detention Center** in Eloy, Arizona pursuant to the Respondents' new policy reinterpreting the immigration detention statutes to preclude Petitioner from eligibility for bond under the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for a bond hearing under 8 C.F.R. §§ 1003.19(a), 1236.1(d). Instead, pursuant to this new policy, Respondents now consider Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of her removal proceedings.

2. Petitioner is a single, native and citizen of Mexico who entered the United States on or about October 31, 2007, at the age of two (2) months old, some 18 years ago. She completed all her schooling in the United States from Kindergarten to Carl Harden High School. She is the mother to one U.S. citizen child, J [REDACTED] born [REDACTED]. On May 18,

1 2023, U.S. Immigration and Citizenship (USCIS) found that her application
2 for a U-visa was *bona fide* but due to the annual cap, could not approve the
3 application until a visa number becomes available. In the interim, she was
4 granted a four (4) year employment authorization document. (EAD). On
5 January 2, 2026, she was arrested for misdemeanor assault and transferred to
6 Immigration & Customs Enforcement (ICE). Petitioner was placed in
7 removal proceedings with the filing of a Notice to Appear ("NTA") dated
8 January 16, 2026, charging her as removable under INA § 212(a)(6)(A)(i) for
9 being present in the United States without being admitted or paroled.
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12 3. Before the Immigration Judge, Petitioner conceded removability and
13 indicated she would be applying for cancellation of removal and voluntary
14 departure in the alternative. Petitioner is also the derivative beneficiary of a
15 U-visa filed by her mother, Zulma Mejia-Bustamante. On May 18, 2023, U.S.
16 Immigration and Citizenship (USCIS) found that her application for a U-visa
17 was *bona fide* but due to the annual cap, could not approve the application
18 until a visa number becomes available. In the interim, she was granted a four
19 (4) year employment authorization document. (EAD).
20
21

22 4. On January 3, 2026, Petitioner was apprehended by Immigration &
23 Customs Enforcement because of her arrest for misdemeanor assault.
24 Petitioner remains detained at the Eloy Detention Center without the
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1 opportunity for release on a bond. She was denied bond because Respondents
2 now interpret the INA to subject those inadmissible under 1182(a)(6)(A)(i)
3 for having entered the United States without admission or parole as being
4 subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore
5 ineligible for release.
6

7 5. Petitioner sought a custody redetermination before an Immigration
8 Judge (IJ) at the Eloy Immigration Court but on March 17, 2026, the IJ denied
9 release based on lack of jurisdiction due to the new interpretation of the
10 statute. Petitioner's detention under this new interpretation violates the plain
11 language of the INA and the regulations.
12

13 6. Subparagraph 1225(b)(2)(A) applies to individuals who are
14 apprehended on arrival in the United States. It states that an "applicant for
15 admission" who is "seeking admission" shall be detained for a removal
16 proceeding. *Id.* It does not apply to individuals like Petitioner, who are
17 arrested and detained by ICE after having entered and begun residing in the
18 United States. Instead, such individuals are subject to a different statute, 8
19 U.S.C. § 1226(a), that allows for release on conditional parole or bond. That
20 statute expressly applies to people who, like Petitioner, are charged as
21 inadmissible for having entered the United States admission or parole, i.e.
22 without inspection.
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1 7. Petitioner therefore requests this Court issue a writ of habeas corpus
2 and order the Respondents to provide Petitioner with a bond hearing that
3 allows her to show she is not a danger to the community nor a flight risk.
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5 6 JURISDICTION

7 8. Petitioner is in the physical custody of Respondents at the Eloy
8 Detention Center, in Eloy, Arizona and is under the direct control of
9 Respondents and their agents.
10

11 9. This action arises under 28 U.S.C. § 2241 and the Immigration and
12 Nationality Act (“INA”), 8 U.S.C. §1101 *et seq.* and its implementing
13 regulations, the APA and the U.S. Constitution.
14

15 10. Jurisdiction is proper under 28 U.S.C. § 2241 (habeas corpus) and 28
16 U.S.C. § 1331 (federal question), as the Petitioner is presently unlawfully
17 detained under color of authority of the United States, and such custody is in
18 violation of the laws of the United States.
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20 11. This Court may grant relief pursuant to 28 U.S.C. § 2241; the
21 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; the APA, 5 U.S.C. §§
22 702, 706; the All-Writs Act, 28 U.S.C. § 1651; and the Court’s inherent
23 equitable powers.
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VENUE

12. Venue is proper in this District under 28 U.S.C. § 1391, in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where a substantial part of the events or omissions giving rise to the Petitioner's claim occurred. Specifically, at least one Defendant is in this District, the Petitioner is detained in this District, and a substantial part of the events giving rise to the claims in this action took place in this District.

PARTIES

13. The Petitioner, Jenysei Garcia-Mejia, is a 18-year-old undocumented immigrant from Mexico who entered the United States on or about October 31, 2007, at two (2) months old, without inspection. She is currently detained by Respondents at the Eloy Detention Center. After she was arrested, ICE did not set bond and on March 17, 2026, the IJ at the Eloy Immigration Court denied bond for lack of jurisdiction, all pursuant to agency's new interpretation of the immigration detention statutes.

14. Defendant Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention.

1 Respondent Noem has ultimate custodial authority over Petitioner and is sued
2 in her official capacity.

3 15. Respondent Department of Homeland Security (DHS) is the federal
4 agency responsible for implementing and enforcing the INA, including the
5 detention and removal of noncitizens.
6

7 16. Respondent Pamela Bondi is the Attorney General of the United States
8 and the most senior official in the U.S. Department of Justice (“DOJ”). She
9 has the authority to interpret the immigration laws and adjudicate removal
10 cases. The Attorney General delegates this responsibility to the Executive
11 Office for Immigration Review (“EOIR”). She is sued in her is official
12 capacity.
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15 17. Respondent EOIR is the federal agency responsible for administering
16 the immigration courts and the Board of Immigration Appeals (“the Board”).
17 The Immigration Courts adjudicate cases including custody redeterminations
18 in bond hearings and the Board is the appellate body that reviews appeals from
19 the decisions of the immigration courts.
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22 18. Respondent Sirce Owen is the Acting Director of EOIR and has
23 ultimate responsibility for overseeing the operation of the immigration courts
24 and the Board. She is sued in her official capacity
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1 19. The Eloy Immigration Court is the adjudicatory body within EOIR with
2 jurisdiction over the removal and bond cases of noncitizens detained in Eloy,
3 Arizona.

4 20. Respondent Immigration and Customs Enforcement (ICE) is the
5 agency within DHS responsible for implementing and enforcing the INA,
6 including the detention and removal of noncitizens.
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8 21. Respondent Christopher McGregor is the Acting Director of ICE and is
9 sued in his official capacity. He is responsible for Petitioner's detention.
10

11 22. Respondent Eric Rokowsky is the Warden of the Eloy Detention Center
12 is under the jurisdiction of the Phoenix Field Office and its director.
13

14 **EXHAUSTION OF REMEDIES**

15 23. The Petitioner has exhausted her administrative remedies to the extent
16 required by law, and her only remedy is by way of this judicial action. She
17 requested a custody redetermination hearing before the IJ in Eloy, Arizona but
18 it was denied due to lack of jurisdiction. Appealing the denial would be futile
19 in light of *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) that held
20 that Immigration Judges lack authority to hear bond requests or to grant bond
21 to noncitizens who are present in the United States without admission.
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STATEMENT OF FACTS

24. Petitioner is a single, native and citizen of Mexico who entered the United States on or about October 31, 2007, at the age of two (2) months old, some 18 years ago. She completed all her schooling in the United States from Kindergarten to Carl Harden High School. She is the mother to one U.S. citizen child, Josselyn Garcia Mejia, born January 19, 2025. On May 18, 2023, U.S. Immigration and Citizenship (USCIS) found that her application for a U-visa was *bona fide* but due to the annual cap, could not approve the application until a visa number becomes available. In the interim, she was granted a four (4) year employment authorization document. (EAD). On January 2, 2026, she was arrested for misdemeanor assault and transferred to Immigration & Customs Enforcement (ICE). Petitioner was placed in removal proceedings with the filing of a Notice to Appear ("NTA") dated January 16, 2026, charging her as removable under INA § 212(a)(6)(A)(i) for being present in the United States without being admitted or paroled.

3. Before the Immigration Judge, Petitioner conceded removability and indicated she would be applying for cancellation of removal and voluntary departure in the alternative. Petitioner is also the derivative beneficiary of a U-visa filed by her mother, Zulma Mejia-Bustamante. On May 18, 2023, U.S. Immigration and Citizenship (USCIS) found that her application for a U-visa

1 was *bona fide* but due to the annual cap, could not approve the application
2 until a visa number becomes available. In the interim, she was granted a four
3 (4) year employment authorization document. (EAD).

4 4. On January 3, 2026, Petitioner was apprehended by Immigration &
5 Customs Enforcement because of her arrest for misdemeanor assault.
6 Petitioner remains detained at the Eloy Detention Center without the
7 opportunity for release on a bond. She was denied bond because Respondents
8 now interpret the INA to subject those inadmissible under 1182(a)(6)(A)(i)
9 for having entered the United States without admission or parole as being
10 subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore
11 ineligible for release.
12

13 5. Petitioner sought a custody redetermination before an Immigration
14 Judge (IJ) at the Eloy Immigration Court but on March 17, 2026, the IJ denied
15 release based on lack of jurisdiction due to the new interpretation of the
16 statute. Petitioner's detention under this new interpretation violates the plain
17 language of the INA and the regulations.
18

19 LEGAL FRAMEWORK

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

1 34. First, 8 U.S.C. §1226 authorizes the detention of noncitizens in standard
2 removal proceedings before an IJ. *See* 8 U.S.C. § 1229a (describing removal
3 proceedings in general). Individuals in § 1226(a) detention are generally
4 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
5 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged
6 with, or convicted of certain crimes are subject to mandatory detention until
7 their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c).
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10 35. Second, the INA provides for mandatory detention of certain recently
11 arrived noncitizens, namely those subject to expedited removal under 8 U.S.C.
12 § 1225(b)(1), and for other recent arrivals “seeking admission” under §
13 1225(b)(2). *See Jennings v. Rodriguez*, 583 U.S. 281, 287, 289, 138 S. Ct. 830
14 (2018) (explaining that § 1225(b)(2)’s mandatory detention scheme applies
15 “at the Nations’ borders and ports of entry” to noncitizens “seeking admission
16 into the United States.”).
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19 34. Last, the INA also provides for detention of noncitizens who have
20 already been ordered removed, including individuals in withholding-only
21 proceedings. *See* 8 U.S.C. § 1231(a)-(b).
22

23 35. This case concerns the detention provisions at § 1226(a) and §
24 1225(b)(2).
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1 36. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as
2 part of the Illegal Immigration Reform and Immigrant Responsibility Act
3 (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-
4 546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently
5 amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat.
6 3 (2025).

7
8 37. Following the enactment of the IIRIRA, EOIR drafted new regulations
9 explaining that, in general, people who entered the country without inspection
10 were not considered detained under § 1225 and that they were instead detained
11 under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention
12 and Removal of Aliens; Conduct of Removal Proceedings; Asylum
13 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being
14 applicants for admission, aliens who are present without having been admitted
15 or paroled (formerly referred to as aliens who entered without inspection) will
16 be eligible for bond and bond redetermination”).
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20 38. Thus, in the decades that followed, most people who entered without
21 inspection and were thereafter arrested and placed in standard removal
22 proceedings were considered for release on bond and also received bond
23 hearings before an IJ, unless their criminal history rendered them ineligible.
24 That practice was consistent with many more decades of prior practice, in
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1 which noncitizens who had entered the United States, even if without
2 inspection, were entitled to a custody hearing before an IJ or other hearing
3 officer. In contrast, those who were stopped at the border were only entitled
4 to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No.
5 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restated” the
6 detention authority previously found at § 1252(a)).
7

8 39. On May 22, 2025, the Board issued an unpublished decision holding
9 that all noncitizens who entered the United States without admission or parole,
10 i.e. without inspection, are considered applicants for admission, and are
11 therefore ineligible for IJ bond hearings under 8 U.S.C. § 1225(b)(2)(A).
12

13 40. On July 8, 2025, ICE issued “Interim Guidance Regarding Detention
14 Authority for Applicants for Admission” providing that all persons who
15 entered the United States without inspection shall now be deemed subject to
16 mandatory detention under § 1225(b)(2)(A). The policy applies regardless of
17 when a person is apprehended, and affects those who have resided in the
18 United States for years or even decades. The new policy rejected the well-
19 established understanding of the statutory framework and reversed decades of
20 agency practice.
21

22 41. On September 5, 2025, the Board issued *Matter of Yajure Hurtado*, 29
23 I&N Dec. 216 (BIA 2025), wherein it held that Immigration Judges lack
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1 authority to hear bond requests or to grant bond to noncitizens who are present
2 in the United States without inspection.

3 42. Respondents' reinterpretation of the detention provision at § 1225(b)(2)
4 that subjects noncitizens like Petitioner to mandatory detention without bond
5 under § 1225(b)(2) rather than being eligible for bond under § 1226(a) has
6 already been rejected by several federal courts. For example, after IJs in the
7 Tacoma, Washington immigration court stopped providing bond hearings for
8 people who entered the United States without inspection and who have since
9 resided here, the U.S. District Court in the Western District of Washington
10 found that such a reading of the INA is likely unlawful and that § 1226(a), not
11 § 1225(b), applies to noncitizens who are not apprehended upon arrival to the
12 United States. *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, ---
13 F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025) (granting
14 preliminary injunction). *See also Gomes v. Hyde*, No. 1:25-CV-11571-JEK,
15 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition
16 based on same conclusion); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025
17 WL 2084238, at *8 (D. Mass. July 24, 2025) (finding detention unlawful
18 based on same conclusion); Order, *Bautista et al. v. Santacruz Jr. et al.*, No.
19 5:25-CV-1873-BFM (C.D. Cal. July 28, 2025), Dkt. 14 at *7-8 (granting
20 temporary restraining order based on same conclusion); Opinion & Order,
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1 *Benitez v. Francis*, No. 1:25-CV5937-DEH (S.D.N.Y. August 8, 2025), Dkt.
2 14 at *10-18, 31 (granting habeas petition and directly ordering release from
3 custody based on same conclusion).

4 43. Respondents' reinterpretation of the INA is not in accord with plain text
5 of the statutory provisions. As the *Rodriguez-Vazquez* court and other courts
6 explained, the plain text of the statutory provisions demonstrates that §
7 1226(a), not § 1225(b), applies to people like Petitioner who are present in the
8 United States without being admitted or paroled but have resided in this
9 country for years and even decades.

10 44. Section 1226(a) applies by default to all persons "pending a decision
11 on whether the [noncitizen] is to be removed from the United States." These
12 removal hearings are held under § 1229a, to "decid[e] the inadmissibility or
13 deportability of a[] [noncitizen]." 8 U.S.C. § 1229a(a)(1).

14 45. The text of §1226 also explicitly applies to people charged as being
15 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
16 1226(c)(1)(E). This year, Congress enacted the Laken Riley Act that added
17 subparagraph (E) to section 1226(c). Subparagraph (E) excludes certain
18 noncitizens who entered without inspection under § 1182(a)(6)(A) from §
19 1226(a)'s default bond provision if in addition to being present without being
20 admitted or paroled the noncitizen "is charged with, is arrested for, is
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1 convicted of, admits having committed, or admits committing acts which
2 constitute the essential elements or any burglary, theft, larceny, shoplifting, or
3 assault of a law enforcement officer offense...” 8 U.S.C. § 1226(c)(1)(E)(i)
4 and (ii). Subparagraph (E)’s reference to persons inadmissible under §
5 1182(6)(A), i.e., persons inadmissible for being present without being
6 admitted or paroled, makes clear that, by default, such people are afforded a
7 bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained,
8 “[w]hen Congress creates “specific exceptions” to a statute’s applicability, it
9 “proves” that absent those exceptions, the statute generally applies. *Rodriguez*
10 *Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs.,*
11 *P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). Section 1226 therefore
12 leaves no doubt that it applies to people who face charges of being
13 inadmissible to the United States, including those who are present without
14 admission or parole.

15 46. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry
16 or who very recently entered the United States. The statute’s entire framework
17 is premised on inspections at the border of people who are “seeking
18 admission” to the United States. 8 U.S.C. § 1225(b)(2)(A); *see also Diaz*
19 *Martinez*, 2025 WL 2084238, at *8 (“[O]ur immigration laws have long
20 made a distinction between those [noncitizens] who have come to our shores
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1 seeking admission . . . and those who are within the United States after an
2 entry, irrespective of its legality.’” (quoting *Leng May Ma v. Barber*, 357 U.S.
3 185, 187 (1958))). Indeed, the Supreme Court has explained that this
4 mandatory detention scheme applies “at the Nation’s borders and ports of
5 entry, where the Government must determine whether a[] [noncitizen] seeking
6 to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. at 287.
7

8 47. Accordingly, the mandatory detention provision of § 1225(b)(2) does
9 not apply to people like Petitioner, who has already entered and was residing
10 in the United States for 18 years at the time she was apprehended.
11

12 **CLAIMS FOR RELIEF**

13 **FIRST CLAIM FOR RELIEF** 14 **VIOLATION OF 8 U.S.C. § 1226(a)** 15

16 48. Petitioner re-alleges and incorporates by reference the paragraphs
17 above.
18

19 49. The Petitioner is being detained in violation of law where she has been
20 unlawfully denied release on bond.

21 50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
22 apply to all noncitizens residing in the United States who are subject to the
23 grounds of inadmissibility. As relevant here, it does not apply to those who
24 previously entered the country and have been residing in the United States
25 prior to being apprehended and placed in removal proceedings by
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1 Respondents. Such noncitizens are detained under § 1226(a) and are eligible
2 for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or §
3 1231.

4
5 51. Nonetheless, Respondents including DHS, ICE, and EOIR have
6 reinterpreted § 1225(b)(2) to apply to noncitizens who are present in the
7 United States without admission or parole, like Petitioner, pursuant to the
8 Board's precedent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216
9 (BIA 2025) and ICE's July 8, 2025 "Interim Guidance Regarding Detention
10 Authority for Applicants for Admission."

11
12 52. The unlawful application of § 1225(b)(2) to Petitioner mandating his
13 continued detention violates the INA.
14

15 **SECOND CLAIM FOR RELIEF**
16 **VIOLATION OF THE REGULATIONS**
17 **8 C.F.R. §§ 236.1, 1236.1, and 1003.19**

18 53. Petitioner re-alleges and incorporates by reference the paragraphs
19 above.

20 54. In 1997, after Congress amended the INA through IIRIRA, EOIR and
21 the then-Immigration and Naturalization Service issued an interim rule to
22 interpret and apply IIRIRA. Specifically, under the heading "Apprehension,
23 Custody, and Detention of [Noncitizens]," the agencies explained that
24 "[d]espite being applicants for admission, [noncitizens] who are present
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1 without having been admitted or paroled (formerly referred to as [noncitizens]
2 who entered without inspection) *will be eligible for bond and bond*
3 *redetermination.*” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus
4 made clear that individuals who had entered without inspection were eligible
5 for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226
6 and its implementing regulations.
7

8 55. Nonetheless, Respondents have reinterpreted sections 1226(a) and
9 1225(b)(2) to apply to Petitioner who is present in the United States without
10 being admitted or paroled.
11

12 56. The application of § 1225(b)(2) to the Petitioner unlawfully mandates
13 her continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
14

15 **THIRD CLAIM FOR RELIEF**
16 **VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT**

17 57. Petitioner re-alleges and incorporates by reference the paragraphs
18 above.
19

20 58. The APA provides that a “reviewing court shall . . . hold unlawful and
21 set aside agency action, findings, and conclusions found to be arbitrary and
22 capricious, an abuse of discretion, or otherwise not in accordance with law.”
23 5 U.S.C. § 706(2)(A).
24

25 59. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
26 apply to all noncitizens residing in the United States who are subject to the

1 grounds of inadmissibility. As relevant here, it does not apply to those who
2 previously entered the country and have been residing in the United States
3 prior to being apprehended and placed in removal proceedings by
4 Respondents. Such noncitizens are detained under § 1226(a) and are eligible
5 for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or §
6 1231.
7

8 60. Nonetheless, Respondents have reinterpreted the relevant statutes so as to
9 apply § 1225(b)(2) to bond eligible noncitizens like the Petitioner.
10

11 61. Moreover, Respondents new interpretation of the statute is a change to
12 decades of law and practice by the ICE, DHS, and EOIR. Respondents have
13 failed to articulate reasoned explanations for their decisions, have considered
14 factors that Congress did not intend to be considered; have entirely failed to
15 consider important aspects of the problem; and have offered explanations for
16 their decisions that run counter to the evidence before the agencies.
17

18 62. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious,
19 and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C.
20 § 706(2).
21
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23 **FOURTH CLAIM FOR RELIEF**
24 **VIOLATION OF FIFTH AMENDMENT DUE PROCESS CLAUSE**
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63. Petitioner re-alleges and incorporates by reference the paragraphs above.

64. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “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 Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

65. “[T]he Due Process Clause 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. at 693.

66. Respondents’ mandatory detention of Petitioner without consideration for release on bond violates her due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Determine that Respondents’ reinterpretation of sections 1225(b)(2) and 1226(a) so as to deny consideration of bond to Petitioner on the basis of section 1225(b)(2) violates the INA, its implementing regulations, the APA, and the Due Process Clause;

1 3) Issue a Writ of Habeas Corpus requiring Respondents release Petitioner
2 pursuant to 8 U.S.C. § 1226(a) or the Due Process Clause

3 4) Award Petitioner her costs and reasonable attorneys' fees in this action as
4 provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, other
5 statute; and
6

7 5) Grant such further relief as the Court deems just and proper.
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11 Dated: March 20, 20256 Respectfully submitted,
12

13 /s/ Lewis R. Gilbreath
14 Lewis R. Gilbreath
15 Attorney for Petitioner
16 **Jenysei Garcia-Mejia**
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VERIFICATION

I, Lewis R. Gilbreath, hereby declare under penalty of perjury of the laws of the State of Arizona and the United States that the facts alleged in the foregoing Verified Petition for a Writ of Habeas Corpus are to the best of my knowledge true and correct.

Executed on this 20 day of March, 2026 in Phoenix, Arizona.

/s/ Lewis R. Gilbreath
Lewis R. Gilbreath
Attorney for Petitioner
Jenysei Garcia-Mejia

CERTIFICATE OF SERVICE

I hereby certify that on the 20 of **March 2026** I caused to be delivered by electronic delivery, a copy of the foregoing PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 to:

Timothy Courchaine, U.S. Attorney
United States Attorney's Office for the District of Arizona
Two Renaissance Square 40 N. Central Avenue,
Suite 1800
Phoenix, AZ 85004-4408

/s/ Lewis R. Gilbreath
Lewis R. Gilbreath
Attorney for Petitioner

I hereby certify that on the 20 of **March 2026** I caused to be delivered by U.S. Certified Mail, Return Receipt Requested, a copy of the foregoing PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 to:

Kriti Noem, Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

Pamela Bondi, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Sirce Owen, Acting Director of EOIR
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

1 Todd Lyons, Senior Official
2 Performing Duties of Director of ICE
3 U.S. Department of Homeland Security/ICE
4 Washington, D.C. 20528

5 Christopher McGregor, Acting Field Office Director
6 Department of Homeland Security
7 Immigration & Customs Enforcement
8 Office of Detention and Removal
9 2035 N. Central Ave
10 Phoenix, Arizona 85004

11 Eric Rokowsky, Warden
12 Eloy Detention Center
13 1705 E Hanna Road
14 Eloy, AZ 85131
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