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9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**  
11

12 **DILCIA YOLANDA GUIFARRO-GUERRERO**

13 Petitioner

14 v.

15 **Christopher LAROSE**, Senior Warden, Otay

16 Mesa Detention Center;

17 **Markwayne MULLIN**, Secretary, U.S.

18 Department of

19 Homeland Security;

20 **Todd LYONS**, Acting Director, U.S.


21 Immigration and Customs Enforcement;

22 **Todd BLANCHE**, Acting Attorney General of the

23 United States

24 Respondents  
25  
26  
27

Case No.: '26CV2107 BAS DEB

Agency File No: 

**PETITION FOR WRIT OF  
HABEAS CORPUS AND  
REQUEST FOR ORDER TO  
SHOW CAUSE WITHIN THREE  
DAYS**

**INTRODUCTION**

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2 1. Petitioner Dilcia Yolanda Guifarro-Guerrero respectfully submits this Petition for a  
3 Writ of Habeas Corpus challenging her unlawful detention by the Department of Homeland  
4 Security (“DHS”). Petitioner is a native and citizen of Honduras who entered the United States  
5 without inspection on or about October 11, 2023. Shortly after her entry, Petitioner was  
6 encountered by immigration authorities, processed, and released from custody on a Form I-220A  
7 (Order of Release on Recognizance). DHS thus affirmatively elected to permit Petitioner to  
8 reside in the United States rather than maintaining her in inspection-stage detention. Petitioner  
9 thereafter lived at liberty in the United States for more than two years.

10 2. During that period, Petitioner complied with all requirements imposed by immigration  
11 authorities, including appearing for scheduled ICE check-ins. On or about January 31, 2026,  
12 Petitioner was arrested by ICE officers during a routine check-in. She is now detained at the  
13 Otay Mesa Detention Center despite having previously been released by DHS and permitted to  
14 live in the United States for years. Petitioner did everything the government asked of her—and  
15 was detained anyway.

16 3. Following Petitioner’s interior arrest in 2026—more than two years after her release—  
17 DHS has treated her as subject to detention under INA § 235(b), a classification that deprives her  
18 of access to a custody redetermination hearing before an Immigration Judge. As a result,  
19 Petitioner has been denied an individualized, constitutionally adequate bond hearing before a  
20 neutral decisionmaker.

21 4. The detention authority set forth in INA § 235(b) governs the inspection and admission  
22 process at or near the border. Once DHS elected to release Petitioner from custody in 2023 and  
23 permitted her to reside at liberty in the United States, the statutory predicate for continued  
24 detention under INA § 235 ceased to exist. DHS cannot resurrect inspection-stage detention  
25 authority years later following an interior arrest. Any subsequent detention must therefore  
26 proceed, if at all, under INA § 236(a), which provides eligibility for an individualized bond  
27 hearing consistent with due process.

1 5. This Court has recently addressed materially indistinguishable facts. In *Dadhwal v.*  
2 *LaRose*, Case No. 3:26-cv-01808 (S.D. Cal. Apr. 1, 2026), the court granted habeas relief where  
3 a noncitizen, after being released on a Form I-220A and residing at liberty, was re-arrested by  
4 ICE and detained without a bond hearing. The Court held that INA § 1225(b) did not apply and  
5 that detention must proceed, if at all, under INA § 1226(a), and ordered immediate release. There  
6 is no material distinction between that case and the present one.

7 6. Petitioner does not challenge the initiation of removal proceedings or the merits of  
8 removability. This petition challenges only the legal basis of her detention—specifically, DHS’s  
9 unlawful classification of her custody under INA § 235(b) rather than INA § 236(a). Because  
10 Petitioner has been denied any meaningful opportunity to obtain an individualized custody  
11 determination before a neutral decisionmaker, judicial intervention is necessary.

12 7. Petitioner therefore seeks a writ of habeas corpus ordering her immediate release from  
13 custody. In the alternative, Petitioner requests an order directing DHS to provide a prompt,  
14 constitutionally adequate bond hearing consistent with the Due Process Clause, at which the  
15 Department of Homeland Security bears the burden of proving, by clear and convincing  
16 evidence, that continued detention is necessary.

### 17 **JURISDICTION AND VENUE**

18 8. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in the custody  
19 of the Department of Homeland Security within this District and she challenges the legality of  
20 that custody.

21 9. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises  
22 under the Constitution and laws of the United States, including the Immigration and Nationality  
23 Act and the Due Process Clause of the Fifth Amendment.

24 10. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction. Section  
25 1252(g) bars only challenges to the Attorney General’s discretionary decisions to “commence  
26 proceedings, adjudicate cases, or execute removal orders,” not independent challenges to  
27 unlawful detention. Likewise, § 1252(b)(9) consolidates review of removal orders in the courts

1 of appeals, but does not foreclose habeas review of detention claims, which are collateral to the  
2 removal proceedings.

3 11. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is  
4 detained at the Otay Mesa Detention Center, which lies within the jurisdiction of this Court.

5 **PARTIES**

6 12. Petitioner, Dilcia Yolanda Guifarro-Guerrero, is a native and citizen of Honduras  
7 currently detained at the Otay Mesa Detention Center in San Diego, California.

8 13. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention  
9 Center.

10 14. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland  
11 Security (DHS).

12 15. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs  
13 Enforcement (ICE).

14 16. Respondent Todd Blanche is the Acting Attorney General of the United States and  
15 the head of the U.S. Department of Justice (DOJ).

16 17. All Respondents are named in their official capacities.

17 **LEGAL FRAMEWORK**

18 18. The Immigration and Nationality Act (“INA”), codified at 8 U.S.C. § 1101 et seq.,  
19 provides multiple detention authorities. For decades, courts, Congress, and agencies have  
20 consistently distinguished between two distinct statutory frameworks: INA § 235 (8 U.S.C. §  
21 1225), which governs applicants for admission encountered at or near the border, and INA § 236  
22 (8 U.S.C. § 1226), which governs the arrest and detention of individuals already present in the  
23 United States and placed in removal proceedings. The Supreme Court analyzed the interplay  
24 between these provisions in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

25 19. Section 1225 provides that, for purposes of initial inspection at the border, “an alien  
26 who arrives in the United States or is present in this country but has not been admitted, is treated  
27 as an applicant for admission.” *Jennings*, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)). The  
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1 Court explained that decisions concerning who may enter or remain in the United States  
2 “generally begin at the Nation’s borders and ports of entry, where the Government must  
3 determine whether an alien seeking to enter the country is admissible.” *Id.* Section 1225(b)  
4 governs this inspection and admission process, applying primarily to individuals encountered at  
5 or near the border, subjecting them either to expedited removal under § 1225(b)(1)—which  
6 includes a credible-fear process for those expressing an intent to seek asylum—or to detention  
7 pending a decision on admission under § 1225(b)(2). *Id.* at 297; see also *Dep’t of Homeland Sec.*  
8 *v. Thuraissigiam*, 591 U.S. 103 (2020).

9 20. By contrast, § 1226(a) governs the detention of individuals who entered years ago and  
10 were later apprehended in the interior, “pending a decision on whether [they are] to be removed  
11 from the United States.” *Jennings*, 583 U.S. at 303. Unlike § 1225, which applies at the border, §  
12 1226(a) authorizes the Attorney General to detain or release such individuals on bond or  
13 conditional parole, except as provided in subsection (c), which applies only to a narrow category  
14 of noncitizens with specified criminal or security-related grounds. *Id.* at 303, 306. Arrests made  
15 pursuant to § 1226(a) are ordinarily executed on administrative warrants, and longstanding  
16 regulations confirm that such individuals are eligible for Immigration Judge bond hearings. See 8  
17 C.F.R. §§ 236.1(c)(8), 236.1(d)(1), 1236.1(d)(1); 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).  
18 Congress further described § 1226(a) as merely a “restatement” of prior detention authority  
19 under former INA § 242(a), confirming its application to interior arrests pending removal. H.R.  
20 Rep. No. 104-469, pt. 1, at 229 (1996).

21 21. For decades, individuals who entered without inspection but were released from  
22 custody and later arrested in the interior of the United States were consistently treated as subject  
23 to detention under INA § 236(a), not § 235(b). DHS’s decision to release an individual from  
24 custody without conducting a credible fear interview reflects the termination of inspection-stage  
25 detention, such that any later detention following an interior arrest must proceed under the  
26 discretionary detention framework of § 236(a).

1 22. Only in 2025 did DHS and the BIA begin advancing, in certain proceedings, a  
2 contrary interpretation—asserting that noncitizens who entered without inspection must be  
3 treated as subject to detention under § 1225(b)(2). This interpretation represented a departure  
4 from decades of agency practice and contradicted settled expectations regarding custody  
5 jurisdiction.

6 23. On July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”), in  
7 coordination with the Department of Justice, issued Interim Guidance Regarding Detention  
8 Authority for Applicants for Admission. The guidance asserted that noncitizens who entered  
9 without inspection were subject to mandatory detention under INA § 235(b)(2)(A), regardless of  
10 when or where they were apprehended, including individuals who had resided in the United  
11 States for many years.

12 24. The Board of Immigration Appeals later adopted a similar statutory interpretation in  
13 *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

14 25. More recently, federal courts have rejected the application of INA § 235(b) to  
15 noncitizens who were previously released from custody and resided at liberty in the United  
16 States, holding that such individuals are instead subject to detention, if at all, under INA §  
17 236(a). See *Dadhwal v. LaRose*, No. 3:26-cv-01808 (S.D. Cal. Apr. 1, 2026).

18 26. INA § 235(b) authorizes detention only in connection with the inspection and  
19 admission process. That authority is event-based, not status-based. Once DHS elects to release a  
20 noncitizen and forego continued inspection-stage detention, the statutory predicate for § 235  
21 custody no longer exists. The statute does not authorize DHS to reassert that authority years later  
22 following an interior arrest after a prolonged period of liberty.

23 **FACTS**

24 27. Petitioner, Dilcia Yolanda Guifarro-Guerrero, is a native and citizen of Honduras who  
25 entered the United States without inspection on or about October 11, 2023.

1 28. Shortly after her entry, Petitioner was encountered by immigration authorities,  
2 processed, and released from custody on a Form I-220A (Order of Release on Recognizance).  
3 (Exhibit 1).

4 29. DHS did not place Petitioner in expedited removal proceedings under INA § 235(b)  
5 (1), conduct a credible fear interview, or maintain her in inspection-stage detention. Instead,  
6 DHS released Petitioner and permitted her to reside at liberty in the United States.

7 30. Petitioner has resided continuously in the United States since her release in 2023.

8 31. On or about January 31, 2026, Petitioner was arrested by ICE officers during a  
9 scheduled check-in and taken into custody.

10 32. Following her arrest, Petitioner was transferred to the Otay Mesa Detention Center in  
11 San Diego, California, where she remains detained.

12 33. As a result of DHS's classification of her detention under INA § 235(b), Petitioner  
13 has been denied access to an individualized, constitutionally adequate bond hearing before a  
14 neutral decisionmaker.

15 34. On September 5, 2025, the Board of Immigration Appeals issued its precedential  
16 decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), interpreting INA § 235(b)  
17 in a manner that affected custody determinations for certain noncitizens who entered without  
18 inspection.

19 35. On November 25, 2025, the United States District Court for the Central District of  
20 California certified a class in *Maldonado-Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal.),  
21 involving challenges to detention under INA § 235(b).

22 36. On December 18, 2025, the Central District of California vacated DHS's July 8, 2025  
23 Interim Guidance under the Administrative Procedure Act.

24 37. On January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide  
25 guidance stating that the *Maldonado-Bautista* decision did not vacate or enjoin *Matter of Yajure-*  
26 *Hurtado*, and that *Yajure-Hurtado* remained binding precedent on Immigration Judges.

1 38. On February 18, 2026, the United States District Court for the Central District of  
2 California expressly vacated *Matter of Yajure-Hurtado* under the Administrative Procedure Act,  
3 setting aside that decision.

4 39. The government subsequently appealed that ruling to the United States Court of  
5 Appeals for the Ninth Circuit, and on March 6, 2026, the Ninth Circuit issued an administrative  
6 stay pending resolution of the government's emergency motion for a stay pending appeal.

7 40. Petitioner remains detained at the Otay Mesa Detention Center without having  
8 received a constitutionally adequate bond hearing.

9 41. Absent relief from this Court, Petitioner will remain detained without a meaningful  
10 opportunity to obtain a constitutionally adequate bond hearing at which the government bears the  
11 burden of justifying continued detention.

12 **CLAIM FOR RELIEF**

13 **COUNT 1**

14 **Violation of the Immigration and Nationality Act (INA)**

15 42. Petitioner incorporates by reference the allegations of fact set forth in the preceding  
16 paragraphs.

17 43. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all  
18 noncitizens residing in the United States who are subject to grounds of inadmissibility. It does  
19 not extend to individuals who have been released from custody following entry. Petitioner  
20 entered the United States on or about October 11, 2023. Shortly thereafter, DHS encountered,  
21 processed, and released her from custody on a Form I-220A, permitting her to reside at liberty in  
22 the United States. At the time of her January 31, 2026 arrest in the interior of the United States,  
23 Petitioner had resided continuously in the country for more than two years. She is therefore not  
24 lawfully detained under INA § 235(b); to the extent she remains in custody, detention must  
25 proceed under INA § 236(a), 8 U.S.C. § 1226(a), which authorizes release on bond or  
26 conditional parole.

1 44. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to  
2 Petitioner for the additional and independent reason that DHS released her from custody shortly  
3 after her entry rather than maintaining her in inspection-stage detention under INA § 235. DHS  
4 permitted Petitioner to reside at liberty in the United States for more than two years before re-  
5 arresting her in the interior during a scheduled ICE check-in. Under these circumstances, the  
6 statutory predicate for detention under INA § 235 no longer exists. Any subsequent detention  
7 following a later interior arrest must therefore proceed, if at all, under INA § 236(a), which  
8 governs pre-final-order detention.

9 45. Courts in this District have recently confirmed that noncitizens who were released  
10 from custody and later re-arrested after residing at liberty are not subject to detention under INA  
11 § 235(b), but instead fall within the discretionary detention framework of INA § 236(a). See  
12 *Dadhwal v. LaRose*, No. 3:26-cv-01808 (S.D. Cal. Apr. 1, 2026).

13 **COUNT 2**

14 **Violation of the Due Process Clause of the Fifth Amendment**

15 46. Petitioner realleges and incorporates the preceding paragraphs as if fully set forth  
16 herein.

17 47. The Fifth Amendment provides that “[n]o person shall be deprived of life, liberty, or  
18 property, without due process of law.”

19 48. “Freedom from imprisonment—from government custody, detention, or other form of  
20 physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533  
21 U.S. 678, 690 (2001).

22 49. Civil immigration detention is constitutionally permissible only when it bears a  
23 reasonable relation to a legitimate governmental objective, such as ensuring appearance at  
24 proceedings or protecting the community. Detention that lacks adequate procedural safeguards or  
25 is imposed without an individualized determination violates due process. See *Zadvydas*, 533 U.S.  
26 at 690.

1 50. Respondents have violated the Due Process Clause by continuing to detain Petitioner  
2 under INA § 235(b) despite DHS's prior release of Petitioner and her extended residence at  
3 liberty in the United States, and by denying her access to a meaningful, individualized custody  
4 determination before a neutral decisionmaker. As a result, Petitioner remains detained without  
5 any constitutionally adequate process to justify her continued confinement.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioner respectfully requests that this Court:

8 A) Assume jurisdiction over this matter;

9 B) Direct Respondents to refrain from transferring Petitioner outside the jurisdiction of this  
10 District while these proceedings are pending;

11 C) Issue an Order to Show Cause within three (3) days pursuant to 28 U.S.C. § 2243, requiring  
12 Respondents to explain the legal basis for Petitioner's continued detention;

13 D) Declare that Petitioner is not lawfully detained under INA § 235(b), and that, in light of  
14 DHS's release of Petitioner shortly after her entry in October 2023 and its election to proceed  
15 outside of inspection-stage detention, any continued detention must proceed under INA § 236(a);

16 E) Declare that, by depriving Petitioner of any meaningful opportunity to seek release, her  
17 continued detention violates the Immigration and Nationality Act and the Due Process Clause of  
18 the Fifth Amendment;

19 F) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from  
20 custody, or, in the alternative, order a prompt, constitutionally adequate bond hearing before an  
21 Immigration Judge pursuant to INA § 236(a), at which the Department of Homeland Security  
22 bears the burden of proving, by clear and convincing evidence, that continued detention is  
23 necessary to prevent flight or danger to the community;

24 G) Grant such other and further relief as the Court deems just and proper.

25 Respectfully submitted,

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Counsel for Petitioner

Dated: April 3, 2026

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

I submit this verification as counsel for Petitioner in this action. The factual allegations contained in the Petition are based on information provided to me by Petitioner during a personal interview at the Otay Mesa Detention Center, as well as my review of relevant records, including Petitioner's Form I-220A (Order of Release on Recognizance) and other available immigration documents.

I have also communicated with Petitioner's immigration counsel. Based on my review of that information and those communications, and to the best of my knowledge, information, and belief, the factual statements in the Petition accurately reflect Petitioner's circumstances and the procedural history of her detention.

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Counsel for Petitioner

Dated: April 3, 2026