IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

FERJE, HAYAT ASFIR
Petitioner,

v.

PAMELA BONDI, U.S. Attorney General, in her official capacity,
ROBERT GUADIAN, U.S. Immigration & Customs Enforcement Field Office Director for the Colorado Field Office, in his official capacity,
Markwayne Mullin, Secretary, U.S. Department of Homeland Security, in his official capacity, and
JUAN BALTASAR, Warden of GEO Group Aurora Inc, in his official capacity,

Respondents.

PETITIONER'S PETITION FOR WRITOF HABEAS CORPUS

INTRODUCTION

Petitioner, Hayat Ferje is currently detained by Immigration and Customs Enforcement "ICE" at GEO contract Detention facility 3130 N Oakland St., in Aurora, Colorado. Petitioner Hayet Ferje brings this petition for a writ of habeas corpus to challenge her ongoing and unlawful immigration detention by the Department of Homeland Security. Petitioner is a 35-year-old female native and citizen of Ethiopia with no criminal history, no prior immigration proceedings, and only one entry into the United States, which occurred in November 29, 2024. She was detained upon entry into the United States and then released into the United States, she applied for Asylum within the first year in compliance with the Immigration and Nationality Act and appeared at regular check-ins with Immigration. On November 25, 2025 during a routine check-in in Maryland she was detained by ICE officials with no explanation and transferred to Colorado. She has been detained since November 25, 2025 and has remained in custody since that time, she requested a bond and was denied bond by the Immigration Judge stating "no jurisdiction". Petitioner is currently detained without any opportunity for release on bond, despite the absence of any individualized finding that she poses a danger to the community or is a flight risk. Immigration authorities have taken the position that Petitioner is categorically ineligible for a bond hearing before an immigration judge, leaving habeas corpus as the only available mechanism to seek judicial review of the legality of her detention. As a result, Petitioner is being deprived of her liberty without a meaningful opportunity to contest the statutory basis for her confinement. Petitioner has strong ties to the community, no criminal record, and no history of prior immigration violations. Continued detention under these circumstances exceeds the government's statutory

authority and violates fundamental principles of due process. Accordingly, this Court should grant the petition and order Petitioner's immediate release or, in the alternative, require the government to provide a prompt bond hearing before a neutral decisionmaker, where the government bears the burden of demonstrating by clear and convincing evidence that the Petitioner is a flight risk or danger to the community. The court should further order that the Government bear the burden and returning the Petitioner to Maryland where she was residing prior to being transferred.

Habeas corpus is a fundamental legal mechanism that allows a person in government custody to challenge the lawfulness of their detention. Through a petition for a writ of habeas corpus, a detained individual asks a federal court to require the government to justify the legal basis for continued confinement. If the detention is not authorized by statute or violates the Constitution, the court may order the person's release.

In the immigration context, habeas corpus is the primary vehicle through which noncitizens challenge unlawful detention by the Department of Homeland Security, including detention without statutory authority or in defiance of binding court judgments. Federal courts have long recognized that immigration detainees may seek habeas relief under 28 U.S.C. § 2241 when they are "in custody in violation of the Constitution or laws or treaties of the United States." As reflected in *Maldonado Bautista v. Santacruz*, habeas relief is particularly appropriate where the government refuses to comply with a declaratory judgment that conclusively determines the statutory framework governing detention. When DHS or EOIR detains a class member contrary to such a judgment, continued detention is unlawful and warrants immediate judicial intervention through habeas corpus.

Petitioner is in the physical custody of Respondents at the Aurora Geo Detention Facility. She now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the language of the law which this Court has repetitively held as a violation of the immigration and Nationality Act ("INA") under 8 U.S.C. § 1226. This Court has previously found that petitioners who were detained when already present in the United States without inspection and who face removal proceedings and who face removal proceedings due to their entrance without inspection is governed by 8 U.S.C. § 1226. Garcia-Perez v. Guadian,

No. 25-cv-04069-PAB, 2026 WL 89613, at *2-4 (D. Colo. Jan. 13, 2026); Alfaro Orellana v. Noem, No. 25-cv-03976-PAB, 2025 WL 3706417, at *2-4 (D. Colo. Dec. 22, 2025); Florez Marin v. Baltazar, No. 25-cv-03697-PAB, 2025 WL 3677019, at *1-4 (D. Colo. Dec. 18, 2025); Portillo Martinez v. Baltazar, No. 26-cv-00106-PAB, 2026 WL 194163, at *2-5 (D. Colo. Jan. 26, 2026). The INA "contemplates two detention regimes for noncitizens pending removal proceedings," one controlled by § 1225 and one controlled by § 1226. Hernandez v. Baltazar, No. 25-cv-03094-CNS, 2025 WL 2996643, at *3 (D. Colo. Oct. 24, 2025) (citation omitted). Section 1225 mandates detention pending removal provided that, "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained." 8 U.S.C. § 1225 (b)(2)(A). Unless certain exceptions are present, as provided for in § 1225 (b)(2)(B) and (C), § 1225 "mandates detention without opportunity for a bond hearing for the noncitizens to whom it applies. Hernandez 2025 WL 2996643, at *3. Section 1226, on the other hand, does not mandate detention,

providing that "an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Under § 1226(a)(2), the Attorney General has the discretion to release a noncitizen on bond while removal proceedings are pending. 8 U.S.C. § 1226 (a)(2). Federal Regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention." Jennings v. Rodriguez, 583 U.S. 281, 306 (2018).

Petitioner was detained while entering the United States and then released. This Court should look to the most recent arrest to determine whether or not someone she was "seeking admission" at the time of her current apprehension. Therefore, noncitizens who "have been here for years upon years and never proceeded to obtain any form of citizenship . . . are not 'seeking' admission" as defined in § 1225(b)(2)(A). Lopez-Campos v. Raycraft, 797 F. Supp. 3d 771, 781 (E.D. Mich. 2025). While these kinds of noncitizens, like petitioner, "may technically be a noncitizen present in the United States who has not been admitted [making] them an applicant for admission," that does not mean that they are "seeking admission." See id. (internal quotations omitted). The Court should thus find that the Petitioner is detained pursuant to 8 U.S.C. § 1226(a) and not by § 1225(b)(2)(A).

Petitioner entered the United States without inspection in or around November 29, 2024 and was briefly apprehended near the border. Importantly, she was not placed into expedited removal proceedings, was not ordered removed, and was released into the United States. After her release, Petitioner lived in the interior of the country without incident and applied for Asylum and complied with all requests by DHS. She was later re-arrested by immigration authorities in November 2025, after her initial entry and release. Under the Immigration and Nationality Act, detention authority turns not merely on manner of entry, but on the

circumstances of the current arrest and custody. Section 1225(b) applies to noncitizens who are apprehended at or near the border and are in the process of seeking admission. Once a noncitizen is released into the United States and later re-arrested in the interior, that individual is no longer "seeking admission" within the meaning of § 1225(b). Instead, the statutory scheme treats such individuals as subject to discretionary detention under § 1226(a), which expressly provides for the possibility of release on bond following an individualized hearing.

Courts have repeatedly rejected the government's attempt to bootstrap a brief border apprehension into permanent mandatory detention authority. The relevant inquiry is the basis for the present detention, not the historical fact of an earlier encounter. Where, as here, DHS chose to release Petitioner after her initial apprehension and then later re-detained her inside the United States, § 1226(a) governs as a matter of statutory interpretation and due process. Recent district court decisions confirm that habeas relief remains available on this legal theory. In *Del Valle Castillo v. Wamsley*, a case involving a regional class of detained individuals in Washington state, the court expressly held that "[t]he fact that Petitioners are not Bond Denial Class members does not prevent them from seeking habeas relief on similar legal grounds." Order at *4, Del Valle Castillo v. Wamsley, No. 2:25-cv-02054-TMC (W.D. Wash. Nov. 26, 2025). The court recognized that the statutory analysis governing detention under § 1226(a) applies independently of class certification and may be enforced through individual habeas petitions.

Accordingly, even if this Court were to find that Petitioner does not qualify as a class member, the same legal analysis compels the conclusion that her current detention is authorized, if at all, only under § 1226(a). Because § 1226(a) requires an individualized

custody determination and permits release on bond, Petitioner is entitled to a prompt bond hearing before an immigration judge. Continued detention without such a hearing is unlawful and warrants habeas relief.

Jurisdiction and Venue

Petitioner is in the physical custody of Respondents. Petitioner is detained at the Aurora Geo Detention Facility. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

This Court has jurisdiction over this petition pursuant to 28 U.S.C. § 2241, as Petitioner is in custody under the authority of the United States, and the detention is in violation of the Constitution, laws, or treaties of the United States. Venue is proper in the District of Colorado as Petitioner is detained within this district.

Factual Background

Petitioner is a native and citizen of Ethiopia , born on October 19, 1990. She has no criminal history, no prior immigration violations, and no history of prior immigration proceedings before the events giving rise to this petition. Petitioner entered the United States without inspection in or around 11/29/2024. Her entry was brief and occurred near the southern border, where she was apprehended by immigration authorities shortly after crossing. Petitioner was not ordered removed at that time. She was not placed into

expedited removal proceedings, was not issued a final order of removal, and was not continuously detained. Instead, following her brief apprehension, Petitioner was released into the United States. After his release in 2024, Petitioner remained in the United States without further immigration enforcement action. During this period, Petitioner did not reenter the country, did not depart and return, she applied for Asylum and was in the process of seeking Asylum. This was Petitioner's only entry into the United States. She has no criminal arrests, convictions, or pending criminal charges. On November 25, 2025, after her initial entry and release, Petitioner was taken into custody by DHS and placed into immigration detention. She has remained detained since that date. DHS issued charging documents initiating removal proceedings under section 240 of the Immigration and Nationality Act. Petitioner was charged as removable based on her entry without inspection. Upon detention, DHS determined that Petitioner would remain in custody and did not set bond. The Petitioner requested a bond and was denied a bond on March 17, 2026 stating that the Immigration Judge did not have "jurisdiction" to issue a bond. Immigration authorities have taken the position that Petitioner is not eligible for bond consideration before an immigration judge and that she must remain detained pending the resolution of his removal proceedings. Other than an I-589 Application, Petitioner has no prior applications filed with U.S. Citizenship and Immigration Services or the Executive Office for Immigration Review. She does not have a criminal record and has not been accused of posing a danger to the community or a flight risk. As of the filing of this petition, Petitioner remains detained without having received a bond hearing or an individualized custody determination by an immigration judge, she has further been removed from the community she was residing and transferred to Colorado to limit her ability to seek help from those who know her.

PARTIES

1. Petitioner is a citizen of Ethiopia who has been in immigration detention since November 2025. After Petitioner was arrested, ICE did not set bond. Petitioner has resided in the United States since 2024.
2. Respondent ROBERT GUADIAN is the Director of the Denver Field Office of ICE's Enforcement and Removal Operations division. As such, he is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.
3. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.
4. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.
5. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.
6. Respondent JUAN BALTASAR is employed by GEO Group Aurora Inc as Warden of the Geo Aurora Ice Detention Facility, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

CLAIM FOR RELIEF
Violation of the INA:
Request for Relief Pursuant to *Maldonado Bautista*

1. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

2. Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).
3. By denying Petitioner a bond hearing under § 1226(a) and asserting that she is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA.
4. Petitioner entered the United States without inspection in or around 2024 and was briefly apprehended near the border. She was not placed in expedited removal proceedings, was not ordered removed, and was released into the United States. Petitioner thereafter lived in the interior of the country without incident until she was re-arrested by immigration authorities in 2025, after her initial entry and release. Under the INA, detention authority turns on the circumstances of the current arrest, not solely on manner of entry. Section 1225(b) applies to noncitizens apprehended at or near the border who are seeking admission, but once a noncitizen is released into the United States and later re-detained in the interior, § 1226(a) governs and permits release on bond following an individualized hearing. Courts have consistently rejected the government's attempt to rely on a brief, years-old border apprehension to justify mandatory detention. The relevant inquiry is the legal basis for the present detention, not a past encounter that ended in release. Where DHS chose to release Petitioner after her initial apprehension and later re-detained her in the interior, detention authority arises, if at all, under § 1226(a). District courts have further confirmed that habeas relief remains available on this theory even where class membership is disputed. In *Del Valle Castillo v. Wamsley*, the court held that "the fact that Petitioners are not Bond Denial Class members does not prevent them from seeking habeas relief on similar legal grounds." No. 2:25-cv-02054-TMC, Dkt. 28 at *4 (W.D. Wash. Nov. 26, 2025). Petitioner is entitled to a prompt bond hearing, and continued detention without one is unlawful.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner and return her to Maryland;

c. Direct that the burden of Flight Risk and Danger to the community be placed on the Department of Homeland Security.

d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief that this Court deems just and proper.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court order his immediate release from detention.

Dated: April 3, 2026

Respectfully submitted,
/s/ Inga Bergel
Inga Bergel, ESQ.
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CERTIFICATE OF SERVICE

I certify that on April 3, 2026, I filed the foregoing with the Clerk of the Court for the District of Colorado using the CM/ECF system. All Participants in the case are registered with the CM/ECF and will be served by the CM/ECF system.

Respectfully submitted,

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