UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No: 26-CV-_____

NICOLE BETANCUR-GONZALEZ, aka [redacted]

Petitioner,

v.

GARRETT J. RIPA, Field Office Director, U.S. Immigration and Customs Enforcement, Miami Field Office; TODD M. LYONS, Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; TODD BLANCHE, Acting U.S. Attorney General, U.S. Department of Justice; Warden of Krome North Service Processing Center,

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. §2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Petitioner, Nicole Betancur-Gonzalez aka [redacted] ("Petitioner" or "Ms. Betancur"), is a trans woman from Venezuela who holds Temporary Protected Status ("TPS") under 8 U.S.C. §1254a. She brings this petition for a writ of habeas corpus under 28 U.S.C. §2241 to challenge the lawfulness of her detention by Respondents at the Krome North Service Processing Center in Miami, Florida (hereinafter "Krome"), as TPS holders may not be detained or deported while their TPS remains valid. The TPS statute provides that a noncitizen "provided temporary protected status under this section *shall not be detained* by the Attorney General on the basis of the [noncitizen's] immigration status in the United States." 8 U.S.C. §1254a(d)(4) (emphasis added). This protection covers all TPS holders including those who lack other immigration status, because the government "shall not remove the [noncitizen]

from the United States during the period in which such [TPS] status is in effect." 8 U.S.C. §1254a(a)(1)(A).

2. Petitioner has now been detained by U.S. Immigration and Customs Enforcement ("ICE") for ***146 days*** (since Nov. 15, 2025) despite the unambiguous statutory command that TPS holders may not be either detained or deported.

3. On September 19, 2024, DHS granted Ms. Betancur Temporary Protected Status ("TPS") under the 2023 TPS redesignation of Venezuela. She attempted to re-register under the January 17, 2025, extension of TPS for Venezuela.

4. Though former Secretary of Homeland Security Kristi Noem attempted to rescind TPS for Venezuela, for the purposes of this habeas petition, Petitioner's TPS status remains valid. This is because on December 10, 2025, the U.S. District Court of the Northern District of California granted declaratory relief and declared unlawful DHS's vacatur of the January 17, 2025 extension of TPS for Venezuela and termination of Venezuela's 2023 redesignation in a case brought by the membership organization National TPS Alliance. *Nat'l TPS All. v. Noem*, No. 25-cv-01766-EMC, 2025 WL 3539156, at *3 (N.D. Cal. Dec. 10, 2025) (hereinafter "*NTPSA*" and "December 10 Order").

5. The December 10 Order in *NTPSA* controls Petitioner's habeas case, and answers affirmatively the legal question of whether Ms. Betancur retain her status as a TPS holder from Venezuela. Thus, the Court should find Petitioner's detention unlawful and order her immediate release.

6. In the alternative, Ms. Betancur brings this habeas petition to enforce her statutory right to a bond hearing under 8 U.S.C. §1226(a). She is unlawfully detained by the Department of Homeland Security ("DHS") in violation of the Immigration and Nationality Act ("INA") and the due process clause of the Fifth Amendment of the Constitution, as the Executive Office for Immigration Review ("EOIR") has unlawfully denied her a bond hearing.

7. Ms. Betancur also seeks injunctive relief to prevent her transfer outside of the District or state while her habeas proceedings are pending.

JURISDICTION

8. Petitioner is in the physical custody of Respondents. Petitioner is detained at Krome in Miami, Florida.

9. This action arises under the Constitution and the Immigration and Nationality Act, 8 U.S.C. §1101, *et seq.*

10. 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).

11. 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.

VENUE

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of Florida, the judicial district in which Petitioner currently is detained.

13. Venue is also properly in this Court pursuant to 28 U.S.C. §1391(e) because Petitioner is imprisoned in this district. Venue is also proper pursuant to 28 U.S.C. §2243 because the immediate physical custodian of Petitioner resides in this district.

PARTIES

14. Petitioner Nicole Betancur-Gonzalez, aka [redacted] is a citizen of Venezuela detained by Respondents since November 15, 2025. Petitioner has resided in the United States since July 28, 2021. She is detained by Respondents at Krome in Miami, Florida. She is under the direct control of Respondents.

15. Respondent Garrett Ripa is the Director of the Miami Field Office of ICE's Enforcement and Removal Operations ("ICE-ERO"). In his capacity as Field Office Director for ICE-ERO, Respondent Ripa exercises control over and is an immediate custodian of immigration detainees held at Krome, including Petitioner, and is responsible for Petitioner's detention and removal. At all times relevant to this Petition, Respondent Ripa was acting within the scope and course of his employment with ICE. He is named in his official capacity.

16. Respondent Todd M. Lyons is the Senior Official Performing the Duties of the Director for U.S. Immigration and Customs Enforcement. Respondent Lyons is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants. Respondent Lyons is a legal custodian of Petitioner. At all times relevant to this Petition, Respondent Lyons was acting within the scope and course of his position as the Senior Official Performing the Duties of the Director of ICE. He is being sued in his official capacity.

17. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security. As Secretary of the U.S. Department of Homeland Security, Secretary Mullin is responsible for the general administration, implementation, and enforcement of the immigration laws of the United States, has authority over ICE and its field offices, and has authority to order the release of Petitioner. Secretary Mullin has ultimate custodial authority over Petitioner. At all times relevant to this Petition, former Secretary of the U.S. Department of Homeland Secretary Kristi Noem, and currently, Respondent Secretary Mullin have been acting within the scope and course of their position as DHS Secretary. He is being sued in his official capacity.

18. Respondent Todd Blanche is the Acting Attorney General of the United States and the most senior official in the U.S. Department of Justice ("DOJ"), which encompasses the Board of Immigration Appeals ("BIA") and the Immigration Judges ("IJs") as subunits of the Executive Office of Immigration Review ("EOIR"). In this capacity, he has the authority to interpret immigration laws and adjudicate removal and custody cases. As the head of EOIR, he supervises IJs, including those who preside at the Miami Krome Immigration Court. He is sued in his official capacity.

19. Respondent Warden of the Krome North Service Processing Center is the Warden of Krome in Miami, Florida, where Petitioner is detained. Respondent has immediate physical custody of Petitioner and is sued in an official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. There is no statutory requirement of exhaustion of administrative remedies when a noncitizen challenges the lawfulness of her detention. 28 U.S.C §2241.

21. Prudential exhaustion cannot be required when to do so would be futile and result in irreparable harm. *See McCarthy v. Madigan*, 503 U.S. 140, 146-47 (1992); *see also Boumediene v. Bush,* 553 U.S. 723, 794 (2008) ("These qualifications [prudential exhaustion of remedies] no longer pertain here.")

22. The Petitioner requested a bond hearing before the immigration court on two separate occasions. On February 3, 2026, Petitioner was denied bond by an Immigration Judge at the Miami Krome Immigration Court for lack of jurisdiction because she was deemed an "applicant for admission." On March 10, 2026, Petitioner's counsel again requested bond, but the Immigration Judge again stated she had no jurisdiction.

23. Requiring Petitioner to appeal the IJ's bond decisions to the Board of Immigration Appeals would be futile and inefficient and would cause her further irreparable harm. *See Boffill v. Field Off. Dir.*, No. 25-CV-25179-JB, 2025 WL 3246868, at *4–*5 (S.D. Fla. Nov. 20, 2025) (collecting cases).

STATEMENT OF FACTS

24. Ms. Betancur is a native of Venezuela who entered the United States without inspection on or about July 28, 2021, and was not apprehended upon arrival. She was stopped by border officials inside the United States and then released on her recognizance. DHS did not issue a Notice to Appear to commence removal proceedings at the time. Exhibit 1, NTA.

25. Ms. Betancur applied for asylum with USCIS on or about January 3, 2022. Exhibit 2, I-589 Receipt Notice. Her asylum claim is based on suffering past persecution as a trans woman in Venezuela and [redacted]

26. On or about September 21, 2022, Ms. Betancur was granted work authorization and a social security card based on her pending asylum application. Exhibit 3, 2022 work permit and social security card.

27. After the 2023 redesignation of Venezuela for TPS, Ms. Betancur applied for TPS with USCIS on or about December 24, 2023. It was granted on September 19, 2024. Exhibit 4, TPS Approval Notice.

28. USCIS renewed Ms. Betancur's work authorization from October 3, 2024, to October 2, 2029. Exhibit 5, 2024 work permit.

29. Ms. Betancur attempted to re-register for TPS after the January 2025 extension. Exhibit 6, Declaration of Petitioner. The status of that re-registration is unclear.[1]

30. Ms. Betancur has received no communication from USCIS withdrawing her TPS. Exh. 6.

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[1] In an effort to obtain information about her TPS re-registration application, Ms. Betancur filed a Freedom of Information Act ("FOIA") request with USCIS through counsel on Feb. 13, 2026. Exhibit 7, FOIA request. USCIS denied the request on Feb. 20, 2026, claiming that "no records responsive to your request were located." Exhibit 8, USCIS FOIA denial. Ms. Betancur filed an administrative appeal of that denial with USCIS on Feb. 20, 2026. Exhibit 9, FOIA appeal. Despite the statutory requirement that the agency decide the appeal within 20 days, 5 U.S.C. §552(a)(6)(A)(ii), the appeal remains pending, with an estimated completion date of Jan. 4, 2027. Exh. 9. To date, Petitioner has received no documents from USCIS in response to her FOIA request.

31. Petitioner is a member of the National TPS Alliance, a membership organization of TPS holders. Exhibit 10, Proof of NTPSA membership.

32. Ms. Betancur was living in Orlando, Florida, prior to her detention. On November 1, 2025, [redacted] Ms. Betancur was arrested by the Orange County Sheriff's Office for misdemeanor battery. The prosecutor's office declined to file charges against her. Exhibit 11, No Information. She has had no other contact with law enforcement in the United States.

33. ICE took custody of Ms. Betancur from the Orange County Sheriff on or around November 15, 2025, and placed her into removal proceedings as an inadmissible noncitizen present without admission or parole. Exh. 1. ICE has detained her at Krome ever since.

34. On February 3, 2026, and again on March 10, 2026, the immigration court denied Ms. Betancur a bond hearing for jurisdictional reasons. Exhibit 12, No jurisdiction bond order (Feb. 3, 2026); Exhibit 13, No action bond order (Mar. 10, 2026). The Immigration Judge ruled that she lacked jurisdiction to redetermine Ms. Betancur's custody status because she is present without admission and thus, according to the IJ, subject to mandatory detention pursuant to 8 U.S.C. §1225(b)(2)(A), *citing Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

35. Ms. Betancur was assigned the male gender at birth but identifies as female. During the 3.5 months that Ms. Betancur has been at Krome, she has been held in solitary confinement for more than 3 months through no fault of her own. She is a female-presenting individual who has been physically and sexually assaulted and has received threats of rape and death by male detainees because of her transgender identity. Krome officials have discouraged her from filing a complaint by telling her that it will delay her immigration case. Both her imprisonment in solitary confinement and the constant assaults in general population have severely impacted her mental health.

LEGAL BACKGROUND

I. Background on TPS and History of Venezuelan TPS

36. Pursuant to 8 U.S.C. §1254a, DHS "may designate a foreign state for TPS when nationals of that state cannot return there safely due to armed conflict, natural disaster, or other 'extraordinary and temporary conditions.'" *Nat'l TPS All. v. Noem*, 150 F. 4th 1000, 1010 (9th Cir. 2025) (*citing* 8 U.S.C. § 1254a(b)(1)(C)). This designation is permitted unless DHS "finds that permitting the [noncitizens] to remain temporarily in the United States is contrary to the

national interest of the United States." *Id.* The DHS Secretary selects the TPS designation period for a foreign state for a period of between six and eighteen months. *Id.* (*citing* 8 U.S.C. §1254a(b)(2)). "Such a designation permits certain nationals of the foreign state, who have continuously resided in the United States since the effective date of designation, to register for employment authorization and protection from deportation for the duration of the TPS period." *Id.* (*citing* 8 U.S.C. §1254a(a)(1), (b)(2)).

37. DHS originally designated Venezuela for TPS on March 9, 2021, allowing Venezuelans in the United States as of March 8, 2021, to apply for TPS. *See Designation of Venezuela for Temporary Protected Status*, 68 FR 13574-01, at *13576 (Mar. 9, 2021).

38. On October 3, 2023, DHS redesignated Venezuela for TPS through April 2, 2025, allowing Venezuelans in the United States as of July 31, 2023, to apply for TPS for the first time.[2] *See Extension and Redesignation of Venezuela for Temporary Protected Status*, 88 FR 68130 (Oct. 3, 2023) (hereinafter "2023 redesignation"). On December 24, 2023, Ms. Betancur applied for TPS under the 2023 redesignation, and USCIS granted her TPS on September 19, 2024. Exh. 4.

39. On January 17, 2025, DHS extended the 2023 Venezuela designation by 18 months, through October 2, 2026. *See Extension of the 2023 Designation of Venezuela for Temporary Protected Status*, 90 FR 5961 (hereinafter "January 2025 extension"). In support of that extension, DHS found that:

> Venezuela is experiencing a complex, serious and multidimensional humanitarian crisis. The crisis has reportedly disrupted every aspect of life in Venezuela. Basic services like electricity, internet access, and water are patchy; malnutrition is on the rise; the healthcare system has collapsed; and children receive poor or not education. Inflation rates are also among the highest in the world. Venezuela's complex crisis has pushed Venezuelans into poverty, hunger, poor health, crime, desperation and migration. Moreover, Nicolas Maduro's declaration of victory in the July 28, 2024 presidential election—which has been contested as fraudulent by the opposition—has been followed by yet another sweeping crackdown on dissent.

Id. at 5963 (internal quotation marks and citations omitted).

[2] Because Petitioner did not enter the United States until July 28, 2021, she was not eligible to apply for TPS under the initial designation.

40. The January 2025 extension allowed existing TPS beneficiaries such as Ms. Betancur to retain TPS through October 2, 2026, if they otherwise continued to meet the eligibility requirements for TPS. *Id.* at 5962. Ms. Betancur attempted to re-register for TPS under the January 2025 extension. Exh. 6.

41. Once a person has TPS, there are only two ways they can lose it: (1) the United States Citizenship and Immigration Service ("USCIS") may seek to withdraw TPS under a statutory withdrawal procedure, 8 U.S.C. §1254a(c)(3); 8 C.F.R. §244.14; or (2) if statutory requirements are met, DHS may terminate an entire country's TPS designation, 8 U.S.C. §1254a(b)(3)(B).

42. After the current administration entered office, on January 28, 2025, the new DHS Secretary purported to vacate the January 2025 extension, publishing the decision in the Federal Register on February 3, 2025. *See Vacatur of Temporary Protected Status Decision for Venezuela*, 90 FR 8805 (Feb. 3, 2025) (hereinafter "2025 vacatur"). This action was the first purported vacatur of a TPS extension in the 35-year history of the TPS statute.

43. DHS later purported to terminate the 2023 redesignation which would end the status for around 350,000 Venezuelans as of April 7, 2025, publishing a notice in the Federal Register on February 5, 2025. *See Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status*, 90 FR 9040 (Feb. 5, 2025) (hereinafter "2023 termination").

II. The *NTPSA v. Noem* December 10, 2025 Declaratory Judgment applies definitively to Petitioner's case.

44. On February 19, 2025, the National TPS Alliance, a non-profit membership organization of TPS holders nationwide, and seven individual Venezuelan TPS holders sued the federal government, alleging that the vacatur and subsequent termination of TPS for Venezuela were contrary to the TPS statute, in violation of the Administrative Procedures Act and in violation of the Fifth Amendment to the Constitution. *Nat'l TPS All. v. Noem*, No. 25-CV-01766-EMC (N.D. Cal.) (hereinafter "*NTPSA*").

45. On December 10, 2025, the district court in *NTPSA* issued a final judgment declaring unlawful the vacatur of the January 17, 2025, extension of TPS for Venezuela and the termination of Venezuela's 2023 redesignation for TPS. *Nat'l TPS All. v. Noem*, No. 25-CV-01766-EMC, 2025 WL 3539156, at *3 (N.D. Cal. Dec. 10, 2025) ("December 10 Order"). The court stayed its order for two weeks to permit the government to appeal and/or seek a stay. *Id.* The government filed an appeal (No. 26-187) on Jan. 8, 2026, but did not seek a stay of the

December 10 Order. No stay has been issued by the Ninth Circuit or the Supreme Court for the December 10, 2025, nationwide declaratory judgment. Absent a stay, there is no basis to not apply the declaratory judgment. Unless or until the December 10 Order is reversed on appeal, it remains in effect.

46. A declaratory judgment is a final judgment on the merits which defines the legal duties among the parties. *See* 28 U.S.C. §2201 ("Any such declaration shall have the force and effect of a final judgment[.]") "[T]here is little practical difference between injunctive and declaratory relief." *California v. Grace Brethren Church*, 457 U.S. 393, 394 (1982). In suits against government officials and departments, courts generally presume that the government will comply with declaratory judgments. *See Poe v. Gerstein*, 417 U.S. 281, 281 (1974) (per curiam).

47. A final merits judgment, including a declaratory judgment, has preclusive effect on future proceedings involving the same parties. *See Haaland v. Brackeen*, 599 U.S. 255, 293 (2023) ("[T]he point of a declaratory judgment 'is to establish a binding adjudication that enables the parties to enjoy the benefits of reliance and repose secured by res judicata.'") (citations omitted).

48. "A final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action. [E]ven if the second suit is for a different cause of action, the right, question, or fact once so determined must, as between the same parties or their privies, be taken as conclusively established, so long as the judgment in the first suit remains unmodified. Accordingly, [a] case pending appeal is res judicata and entitled to full faith and credit unless and until reversed on appeal." *Comer v. Murphy Oil USA, Inc.*, 718 F.3d 460, 467 (5th Cir. 2013) (internal cites and quotations omitted); *Seminole Tribe of Fla. v. Biegalski,* 757 Fed. Appx. 851 (11th Cir. 2018).

49. Here, the respondent was granted TPS in 2024 under the 2023 redesignation and attempted to re-register under the January 2025 extension. Exh. 4; Exh. 6. The December 10 Order declared unlawful the vacatur of the January 2025 extension and the termination of the 2023 redesignation. Absent a stay from a higher court, Petitioner continues to be a beneficiary of TPS.

III. Petitioner continues to have valid TPS because DHS has not followed the statutory procedure to withdraw it.

50. As previously mentioned, an individual maintains TPS unless or until: (1) the government seeks to withdraw TPS from the individual for cause under a statutory withdrawal

procedure, 8 U.S.C. §1254a(c)(3); 8 C.F.R. §244.14; or (2) if statutory requirements are met, DHS may terminate an entire country's TPS designation, 8 U.S.C. §1254a(b)(3)(B).

51. These are the only two ways that an individual may lose TPS. An individual does not lose TPS merely because the DHS Secretary does not formally approve their re-registration. So long as DHS does not legally terminate TPS for a designated country, individuals from that country retain valid TPS—no action by the Secretary signifying approval is required, as the government concedes elsewhere. *See Echeverria v. Janecka*, No. 1:25-CV-01832-KES-SAB, 2026 WL 44896, at *1 (E.D. Cal. Jan. 7, 2026) (noting that government respondents stated in their briefing that "once an applicant is granted TPS, they continue to be in a TPS status unless the Agency takes some action to terminate the status"); *see Sanchez v. Mayorkas*, 593 U.S. 409, 412 (2021) (noting that temporary protected "status protects [TPS holders] from removal and authorizes them to work here for as long as the TPS designation lasts"); *see also* 8 C.F.R. §244.17 (re-registrants maintain TPS by "attest[ing] to their continuing eligibility" with no further action required "unless USCIS requests that they do so"). Thus, even those who do not re-register retain TPS unless and until the government moves to withdraw their status. *See* 8 C.F.R. §244.14(a)(3).

52. The government has effectuated neither statutory means of removing Petitioner's TPS. The government has not withdrawn Petitioner's TPS pursuant to 8 C.F.R. §244.14. And while the government purports to have vacated the January 2025 extension and terminated Venezuela's 2023 redesignation, pursuant to the December 10 Order, both of those actions are invalid. As a result, the April 2025 expiration date for Petitioner's initial TPS approval has no effect. Several courts have ordered release of TPS holders on this basis.[3]

53. Petitioner retains TPS because DHS's only actions purporting to deprive them of that status—*i.e.,* the vacatur of the January 2025 extension and the termination of the 2023 redesignation—were unlawful.

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[3] *See Gonzalez v. Noem, et al.,* No. 5:26-cv-00357-JWH-AJR, 2026 WL 332223, at *2 (C.D. Cal. Feb. 2, 2026); *Leon v. Chestnut,* No. 1:26-cv-01080-DC-AC (HC), 2026 WL 523231, at *2 (E.D. Cal. Feb. 25, 2026); *Armada v. Chestnut,* No. 1:26-cv-01449-DC-CKD (HC), 2026 WL 555480, at *2 (E.D. Cal. Feb. 27, 2026); Order Granting Petitioner's *Ex Parte* Application for Temporary Restraining Order, *Camacho v. Chestnut,* No. 1:26-cv-01448-DC-CKD (HC) (E.D. Cal. Mar. 4, 2026); Order Granting Petitioner's *Ex Parte* Application for Temporary Restraining Order, *Alvarez v. Chestnut,* No. 1:26-cv-01293-DC-CKD (HC) (E.D. Cal. Mar. 4, 2026).

IV. Because Petitioner's TPS is valid, Respondents are prohibited from detaining her, and she should be immediately released.

54. Noncitizens cannot be detained while in TPS. 8 U.S.C. §1254a(d)(4) ("A [noncitizen] provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the [noncitizen]'s immigration status in the United States."); *Mejia v. Noem*, 2:25-CV-981-SPC-NPM, 2025 WL 3078656, at *2-3 (M.D. Fla. Nov. 4, 2025) (confirming that noncitizens with valid TPS cannot be detained); *Arcila Perez v. Noem*, 2:26-CV-00107-SPC-NPM, 2026 WL 206222, at *2 (M.D. Fla. Jan. 27, 2026) (finding that, based on the record, the Venezuelan petitioner maintained valid TPS through Oct. 2, 2026, because the purposed termination of the 2023 resignation was set aside by declaratory judgment).

55. Because Petitioner maintains valid TPS, Respondents should be ordered to immediately release her.

V. In the alternative, Petitioner can only be detained under 8 U.S.C. §1226(a), not §1225(b).

56. The Immigration and Nationality Act (INA) sets forth the limited authority under which DHS can detain noncitizens. The relevant detention provisions here are §§1226(a) and 1225(b).

57. 8 U.S.C. §1226(a) authorizes the detention of noncitizens in removal proceedings before an immigration judge. Individuals in §1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§1003.19(a), 1236.1(d).

58. The INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. §1225(b)(1) and for applicants for admission under §1225(b)(2).

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

60. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under §1225 and that they were instead detained under §1226(a). *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

61. Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. §1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that §1226(a) simply "restates" the detention authority previously found at §1252(a)).

62. However, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a decision holding that an immigration judge has no authority to consider bond requests for any noncitizen who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).[4] Federal courts should not defer to the BIA's interpretation, *see Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400-01 (2024), particularly considering that this interpretation is contrary to the statutory framework, the text of the statute, and decades of agency practice applying section 1226(a) to people like Petitioner.

63. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under §1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

64. Section 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. §1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

65. In contrast, section 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. §1225(b)(2)(A).

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[4]There is a pending California case that certified a class action of noncitizens like Petitioner who are in immigration detention and being denied access to a bond hearing. *See Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). A final judgment was issued in that matter, and is currently stayed on appeal to the Ninth Circuit Court of Appeals.

The use of the words "seeking" and "arriving" indicates action currently occurring, such as would occur at the border upon inspection.

66. The Supreme Court has explained that the mandatory detention scheme set forth in section 1225(b) applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). In contrast, section 1226(a) applies to noncitizens "already present in the United States." *Id.* at 303.

67. Thus, like their brethren courts across the country, the U.S. District Courts in the Eleventh Circuit have rejected the BIA's new interpretation of the INA's detention authority and found that individuals similarly situated to Petitioner, who entered without inspection, are detained pursuant to section 1226(a) and are entitled to a bond hearing.[5] *See Labrada-Hechavarria v. U.S. Att'y Gen.*, No. 23-13664, 2026 WL 496486 (11th Cir. Feb. 23, 2026) ("[T]he majority of district courts to have addressed this issue [of the applicability of §1225(b) or §1226(a)] have rejected the government's new position [in *Yajure Hurtado*]—that all noncitizens

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[5] *See Mejia v. Lyons*, 0:26-60258-CIV-DAMIAN, 2026 WL 914753 (S.D. Fla. Apr. 3, 2026); *Castro v. Parra*, No. 26-cv-20422-BLOOM, 2026 WL 788019 (S.D. Fla. Mar. 20, 2026); *Chamsadine v. Ass't Field Dir.*, 26-21487-CV-WILLIAMS, 2026 WL 746400 (S.D. Fla. Mar. 17, 2026); *Pereira v. Bondi*, No. 1:25-cv-26037-GAYLES, 2026 WL 709758 (S.D. Fla. Mar. 13, 2026); *Lopez v. Miami Fed. Det. Ctr.*, No. 26-20187-CV-DIMITROULEAS, 2026 WL 205596 (S.D. Fla. Jan. 27, 2026); *Ardon-Quiroz v. Assistant Field Off. Dir.*, No. 25-cv-25290-JB, 2025 WL 3451645, at *6 (S.D. Fla. Dec. 1, 2025); *Boffill v. Field Off. Dir.*, No. 25-CV-25179-JB, 2025 WL 3246868, at *5–*7 (S.D. Fla. Nov. 20, 2025) ("[T]he NTA that DHS issued to Petitioner did not classify him as an 'arriving alien.' Instead, the NTA charged him as 'present in the United States without admission or parole.' This classification places him squarely within section 1226."); *Puga v. Assistant Field Off. Dir., Krome N. Serv. Processing Ctr.*, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369, at *5 (S.D. Fla. Oct. 15, 2025) ("[T]he statutory text, context, and scheme of Section 1225 do not support a finding that a noncitizen is 'seeking admission' when he never sought to do so."); *Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *5 (S.D. Fla. Oct. 15, 2025) (collecting cases rejecting *Matter of Yajure Hurtado*); *Patel v. Hardin*, 2:25-cv-870-JES-NPM, 2025 WL 3442706 (M.D. Fla. Dec. 1, 2025); *Carcamo v. Noem*, 2:25-cv-00922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025); *Rojano Gonzalez v. Sterling*, No. 1:25-CV-6080-MHC, 2025 WL 3145764 (N.D. Ga. Nov. 3, 2025); *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *Lopez v. Hardin*, 2:25-cv-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *but see Buenrostro-Mendez v. Bondi*, 166 F. 4th 494 (5th Cir. 2026) (concluding that inadmissible noncitizens apprehended anywhere in the United States are never eligible for release on bond no matter how long they have resided inside the country).

who came into the United States illegally but are living in the United States must now be detained under § 1225(a) until their removal proceedings are completed.")

68. Similarly, the mandatory detention provision of §1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole. Her immigration custody is governed by §1226(a), and she is entitled by agency rules and regulations to a bond hearing.

69. The Court should expeditiously grant this petition and order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. §1226(a) within seven days.

CLAIM FOR RELIEF

COUNT I: Unlawful Detention of TPS Holder in Violation of 8 U.S.C. §1254a

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

71. Section 1254a of Title 8 of the U.S. Code governs the treatment of TPS holders, prohibiting their detention and removal under federal immigration law.

72. Section 1254a(d)(4) states that a noncitizens "provided temporary protected status under this section *shall not be detained* by the Attorney General on the basis of the [noncitizen's] immigration status in the United States." (emphasis added). There is no exception to this rule provided in the statute.

73. Thus, Petitioner's detention violates section 1254a and she is entitled to immediate release from custody.

COUNT II: Unlawful Detention of TPS Holder in Violation of Constitutional Due Process

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

75. Under the Fifth Amendment of the Constitution, no person shall be deprived of life, liberty, or property without due process of law. Freedom from imprisonment lies at the core of the liberty interest protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The protection of the Due Process Clause extends to all persons within the United States, regardless of immigration Status. *Id.* at 693.

76. Respondents' detention of Ms. Betancur despite her current TPS violates her due process rights under the Constitution as it is without statutory authorization. Given that her TPS

prohibits her removal from the United States, her detention serves no legitimate governmental purpose and is not reasonably related to any lawful objective under the INA.

COUNT III: Unlawful Denial of Bond Hearing in Violation of 8 U.S.C. §1226(a)

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

78. The only immigration statute authorizing Petitioner's detention is 8 U.S.C. §1226(a);

79. Respondents continue to hold Petitioner in detention while denying her rights to a custody redetermination hearing under §1226(a) and its implementing regulations and caselaw;

80. 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.

81. Therefore, the Petitioner is entitled to a writ of habeas corpus ordering that she be released if not immediately given a custody redetermination hearing before an immigration judge in accordance with 8 U. S. C. § 1226(a) and its implementing regulations and case law.

COUNT IV: Unlawful Denial of Bond Hearing in Violation of Constitutional Due Process

82. Petitioner repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

83. The government may not deprive a person of life, liberty, or property 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 the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

84. Petitioner has a fundamental interest in liberty and being free from official restraint.

85. The government's detention of Petitioner without a bond redetermination hearing to determine whether she is a flight risk or danger to others violates her right to due process.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Set this matter for expedited consideration pursuant to 28 U.S.C. §1657;

c. Order the Respondents to show cause why all the relief requested by the Petitioner should not be granted within three days, and allowing the Petitioner three days to file a traverse, and, if necessary, set a hearing on this matter within five days of the submission of the return, pursuant to 28 U.S.C. §2243;

d. Order the Respondents to refrain from transferring the Petitioner out of the District during the pendency of this proceeding;

e. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;

f. Enjoin Respondents from further detaining Petitioner so long as TPS for Venezuela remains in effect and Petitioner continues to hold TPS status;

g. Alternatively, declare that Petitioner is detained pursuant to 8 U.S.C. §1226(a) and not 8 U.S.C. §1225(b)(2)(A), and that the refusal to allow a bond redetermination hearing is a violation of the INA and the due process clause of the Fifth Amendment to the Constitution;

h. 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;

i. 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

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

Dated: April 10, 2026

Respectfully submitted,

s/David Claros
David Claros, FBN 93401
s/Trevor Rice
Trevor Rice, NY Bar No. 6184394*
Americans for Immigrant Justice
P.O. Box 520037
Miami, FL 33152
(305) 573-1106
dclaros@aijustice.org
trice@aijustice.org

**pro hac vice application forthcoming*

Counsel for Petitioner

VERIFICATION

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. Based on my review of the administrative record and my discussions with Petitioner, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

s/ David Claros
David Claros, FBN 93401

Date: April 10, 2026

EXHIBITS

1	**Notice to Appear (dated Nov. 4, 2025; filed Nov. 17, 2025)**
2	**I-589 Receipt Notice (Jan. 3, 2022)**
3	**2022 Work Permit and Social Security Card**
4	**TPS Approval Notice (Sep. 19, 2024)**
5	**2024 Work Permit**
6	**Declaration of Petitioner (Apr. 4, 2026)**
7	**Petitioner's FOIA Request to USCIS (Feb. 13, 2026)**
8	**USCIS FOIA Denial (Feb. 20, 2026)**
9	**Petitioner's FOIA Appeal (Feb. 20, 2026)**
10	**Proof of Petitioner's NTPSA Membership**
11	**No Information for Nov. 1, 2025 Arrest**
12	**Immigration Judge No Jurisdiction Bond Order (Feb. 3, 2026)**
13	**Immigration Judge No Action Bond Order (Mar. 11, 2026)**

CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2026, I electronically filed the foregoing and all attachments with the Clerk of the Court by using the CM/ECF system.

s/ David Claros
David Claros, FBN 93401