

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

JUANA VERONICA SANTIAGO,

Petitioner,

v.

VERNON LIGGINS, *in his official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Baltimore Field Office;* MARKWAYNE MULLIN, *in his official capacity as Secretary of Homeland Security;* and TODD BLANCHE, *in his official capacity as Acting Attorney General of the United States,* TODD M. LYONS, *in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement.*

Respondents.

**PETITION
FOR WRIT OF
HABEAS CORPUS**

Case No.

INTRODUCTION

1. Petitioner Juana Veronica Santiago (“Ms. Santiago” or “Petitioner”), a 24-year-old mother of a three-year-old U.S. citizen child, brings this petition for a writ of habeas corpus because she is being unlawfully detained by Respondents as a result of the erroneous conclusion by the Department of Homeland Security (“DHS”) that she is subject to mandatory detention without the possibility of release on bond. Ms. Santiago has an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant and was granted Special Immigrant Juvenile Status (“SIJS”). *See* Exhibit A (Form I-797C, Notice of Action re Approval of SIJS). SIJS is a form of immigration relief that provides a pathway to lawful permanent residence and citizenship to noncitizens who are unable to reunify with a parent because of abuse, neglect, or abandonment in

their countries of origin. SIJS is a lawful immigration status that can only be revoked with process. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 205.2. By going through the SIJS process, Ms. Santiago satisfied a set of rigorous eligibility criteria. Indeed, Ms. Santiago was previously in removal proceedings, which an immigration judge found fit to dismiss in November 5, 2021. Since arriving in the United States as a child, she has lived peacefully in the community without incident and has no criminal history whatsoever. She is the primary caretaker of her tender-aged child, and she is a dedicated member of and volunteer at her local church. Notwithstanding the fact that Ms. Santiago poses no flight risk and no danger to the community and that she is in lawful SIJS status that is intended to provide Ms. Santiago a pathway to permanent residence, Respondents forcibly detained Ms. Santiago on April 16, 2026, forcing her to abandon her 3-year-old child in a Home Depot parking lot.

2. Ms. Santiago's A-number is 

3. Since she was detained on April 16, 2026, Ms. Santiago has been confined in a crowded cell at the Baltimore ICE office, which is the subject of ongoing litigation in this Court. *See* Exhibit D (ICE Online Detainee Locator Record). *See D.N.N. v. Liggins*, No. 1:25-cv-1613, ECF No. 170 (D. Md. Mar. 6, 2026) (issuing preliminary injunction describing and enjoining egregiously poor conditions, severe overcrowding, and complete lack of medical care at the Baltimore ICE office). Absent intervention from this Court, Respondents will likely transfer Ms. Santiago to a detention center far from her family and community in Maryland.

4. Ms. Santiago has been charged with entering the United States without having been admitted or paroled. *See* Exhibit B (Notice to Appear) (citing INA Section 212(a)(6)(A)(i)). This alleged manner of entry, the absence of any history of criminal charges, and her valid SIJS status at the time of her detention, should place her within the default detention authority of 8 U.S.C.

§ 1226(a). Under that statute, Ms. Santiago is eligible to pursue discretionary release on bond from an immigration judge (“IJ”).

5. Despite this clear statutory authority, Respondents are disclaiming any jurisdiction to consider bond requests for noncitizens such as Ms. Santiago, because they are enforcing the Board of Immigration Appeals’ (“BIA”) misguided decision from *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In that decision, which constituted an abrupt and drastic departure from decades of agency policy and practice, the BIA held that an IJ has no jurisdiction to consider bond requests for any person who is present in the United States without admission, and it determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) as “applicants for admission” and therefore ineligible to be released on bond. As a result, any individualized review of Ms. Santiago’s custody has become unobtainable through the typical administrative channels.

6. This Court and countless others across the nation have rejected this flawed legal theory. See *Trejo-Bautista v. President of the United States, et al.*, No. 1:26-cv-20376-KMW, ECF No. 13 at *8 n.3 (S.D. Fla. Mar. 4, 2026) (“The Court has ceased attempting to catalog every district court decision addressing this issue but is aware of approximately 3,500 decisions nationwide reaching the same conclusion.”).

7. Ms. Santiago’s detention on this basis violates the plain language of the Immigration and Nationality Act (“INA”), because § 1225(b)(2) only applies to noncitizens who are apprehended while “seeking admission” to the United States such as at the border. It does not apply to individuals like Ms. Santiago who are alleged to have previously entered the country without admission or parole and were residing in the United States at the time of apprehension—much less to individuals who, like Ms. Santiago, held valid SIJS status at the time of their

detention. By the express provisions of the statute, such individuals are instead subject to § 1226(a), which allows for release on conditional parole or bond.

8. The categorical failure to provide Ms. Santiago with a bond hearing deprives Ms. Santiago of the right to present these facts and have an impartial adjudicator assess whether her continued detention is justified.

9. Accordingly, Ms. Santiago seeks a writ of habeas corpus requiring that she be immediately released from custody, with all of her personal property, or, in the alternative, that she be released pending a bond hearing before an IJ pursuant to 8 U.S.C. § 1226(a), at which the government bears the burden of justifying her detention by clear and convincing evidence.

10. This remedy is necessary to efficiently vindicate Ms. Santiago's rights and to ensure that she receives a fair bond hearing for which she can adequately prepare.

JURISDICTION & VENUE

11. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq.*

12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (the general grant of habeas authority to the district court), including 28 U.S.C. § 2241(c)(3) and (c)(5), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

13. 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.

14. 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 District of Maryland, the judicial district in which Petitioner is currently detained.

15. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained in Baltimore, Maryland, Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Maryland.

16. Venue is proper within this division because Respondent Vernon Liggins has a principal place of business in Baltimore, Maryland.

17. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained in Baltimore, Maryland.

18. Administrative exhaustion is unnecessary, as it would be futile. *See Velasquez v. Noem*, 812 F. Supp. 3d 533, 537 (D. Md. 2025). The Government has not afforded, and will not afford, Petitioner a bond hearing because the Government asserts, contrary to a temporarily stayed class-wide judgment, that she is ineligible for bond under 8 U.S.C. § 1225(b).

PARTIES

19. Petitioner Juana Veronica Santiago is a native and citizen of Guatemala who entered the United States as an unaccompanied child. Ms. Santiago was previously placed in removal proceedings, which were dismissed by an Immigration Judge on November 5, 2021. She is a recipient of Special Immigrant Juvenile Status “SIJS,” and her Form I-130 Petition for Amerasian, Widow(er), or Special Immigrant was approved on or about November 19, 2022. *See* Ex. A (Notice of Action re Approval of SIJS). Ms. Santiago has resided in the Maryland area for years. She has been in Immigration and Customs Enforcement (“ICE”) custody since April 16, 2026, and is currently being held at the Baltimore Hold Room.

20. Respondent Vernon Liggins is the Field Office Director of the ICE Enforcement and Removal Operations (“ERO”) Baltimore Field Office. In that capacity, he is charged with overseeing all ICE detention centers in Maryland, including the Baltimore Hold Room, and has the authority to make custody determinations regarding individuals detained there. Respondent Liggins is a legal custodian of Petitioner. He is sued in his official capacity.

21. Respondent Markwayne Mullin is the Secretary of Homeland Security. He supervises ICE, an agency within DHS which is responsible for the administration and enforcement of immigration laws and has supervisory responsibility for and authority over the detention and removal of noncitizens throughout the United States. Secretary Mullin is the ultimate legal custodian of Petitioner. He is sued in his official capacity.

22. Respondent Todd Blanche is the Acting Attorney General of the United States. As the Acting Attorney General, he oversees EOIR, including all IJs and the Board of Immigration Appeals (“BIA”), and has authority over immigration detention. He is sued in his official capacity.

23. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. As Acting Director, he oversees ICE’s enforcement and removal operations nationwide, including the detention of noncitizens. He has supervisory responsibility for and authority over the detention and removal of noncitizens throughout the United States. He is sued in his official capacity.

LEGAL FRAMEWORK

24. Under the system that Congress created, the INA prescribes three primary detention authorities applicable to most noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. See 8 U.S.C. § 1229a. Individuals detained under § 1226(a) are generally entitled to a

bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens arrested, charged with, or convicted of certain crimes are subject to mandatory detention under § 1226(c). Discretionary detention under § 1226(a) has been described as the "default" detention authority in standard removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). Under § 1226(a), "[e]xcept as provided in subsection (c)," the Attorney General "may release" a noncitizen on "bond" or "conditional parole." *Id.* (internal citation omitted). These authorities have existed largely in the same form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") nearly 30 years ago.

25. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1), as well as certain other recent arrivals seeking admission under § 1225(b)(2).

26. Third, the INA authorizes detention of noncitizens who have been ordered removed, including individuals in reinstatement or withholding-only proceedings. 8 U.S.C. § 1231(a)–(b). This case concerns the detention provisions set forth at 8 U.S.C. §§ 1226(a) and 1225(b).

27. 8 U.S.C. § 1226(a) (INA § 236(a)) sets forth the "default rule" for "[noncitizens] already present in the United States" by "permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings." *Jennings*, 583 U.S. at 303. It states that "on a warrant issued by the Attorney General, a[] [noncitizen] may be arrested and detained pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). Noncitizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek release on bond before an IJ. *Id.* § 1226(a)(2).

28. A separate provision, 8 U.S.C. § 1225(b) (INA § 235(b)), governs the detention of noncitizens who seek admission to the United States at the border at § 1225(b)(1) and § 1225(b)(2). Section 1225(b)(1) applies to noncitizens in “expedited removal” proceedings, while § 1225(b)(2) explains that, notwithstanding several limited statutory exceptions, “in the case of a[] [noncitizen] who is an applicant for admission, if the examining immigration officer determines that a[] [noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] shall be detained for a [removal] proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2). “In other words, noncitizens subject to [Section] 1225(b)(2) are not eligible for expedited removal but are subject to mandatory detention while their full removal proceedings are pending. . . . in contrast to the default detention regime under § 1226(a), which allows for discretionary release and review of detention through a bond hearing.” *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503, at *3 (N.D. Cal. Sept. 12, 2025). Consequently, IJs do not have jurisdiction to grant bond for such “applicant[s] for admission,” though DHS retains the discretion to release such noncitizens on a specific type of parole “for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A).

29. Summing up the relationship between these two statutory provisions, “Section 1225 ‘authorizes the Government to detain certain [noncitizens] seeking admission into the country,’ whereas [S]ection 1226 ‘authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings.’” *J.A.C.P. v. Wofford*, No. 1:25-CV-01354-KES-SKO (HC), 2025 WL 3013328, at *5 (E.D. Cal. Oct. 27, 2025) (citing *Jennings*, 583 U.S. at 289) (emphasis in original). Reflecting that understanding, “[f]or decades, whenever [ICE] detained a noncitizen within the interior part of the United States who did not have a pending order of removal, [it] detained them under [8 U.S.C. § 1226].” *Mendoza Gutierrez v. Baltasar*, No. 25-

CV-2720-RMR, 2025 WL 2962908, at *1 (D. Colo. Oct. 17, 2025) (cleaned up). Consequently, “[u]ntil mid-2025, DHS applied § 1226(a) and its discretionary release and review of detention to the vast majority of noncitizens allegedly in this country without valid documentation,” providing them with the opportunity to seek bond before an IJ. *Aguirre Villa, v. Normand*, No. 5:25-CV-89, 2025 WL 3095969, at *5 (S.D. Ga. Nov. 4, 2025) (internal quotation marks omitted).

30. Additionally, current binding “[f]ederal regulations provide that [noncitizens] detained under § 1226(a) receive bond hearings at the outset of detention.” *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)). Those regulations—which the Department of Justice promulgated in 1997, and which remain in effect—explicitly state that “[noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination,” and that “inadmissible [noncitizens], except for arriving [noncitizens], have available to them bond redetermination hearings before an immigration judge, while arriving noncitizens do not.” *Inspection and Expedited Removal of [Noncitizens]; Detention and Removal of [Noncitizens]; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

31. On July 8, 2025, DHS radically upended this longstanding interpretation and practice when it issued a notice to all ICE employees that “DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities.” *See* AILA Doc. No. 25071607, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission at 1, American Immigration Lawyers Association (July 8, 2025), <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>. In the memo, DHS announced that it considered “applicants for admission” to now encompass any noncitizen “present in the United States who has not been

admitted or who arrives in the United States,” in conjunction with its novel stance “that [Section 1225] of the Immigration and Nationality Act (INA), rather than [Section 1226], is the applicable immigration detention authority for all applicants for admission.” *Id.* As a result, DHS concluded that these noncitizens “are also ineligible for a custody redetermination hearing (‘bond hearing’) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS.” *Id.*

32. On September 5, 2025, the government further doubled down on this position when the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In that decision, the BIA concluded that the “plain text” of the INA mandates that noncitizens who are “present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.” *Id.* at 220. The BIA conceded that even though “section 236(c) of the INA, 8 U.S.C.A. § 1226(c), mandates detention of a subset of the category of [noncitizens] that are also subject to mandatory detention under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A)” —effectively rendering Section 1225(b)(2) superfluous and redundant under this novel interpretation—this concern is irrelevant because “redundancies are common in statutory drafting.” *Id.* at 222.

33. The BIA’s decision in *Matter of Yajure Hurtado*, which IJs across the nation believe they are required to follow as binding precedent, effectively mandates that noncitizens “who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer,” even if they “[r]emain[] in the United States for a lengthy period of time following entry without inspection.” *Id.* at 228. Consequently, IJs “have no authority to redetermine the custody conditions of a[] [noncitizen] who

crossed the border unlawfully without inspection.” *Id.* “This sweeping new policy subjects millions of undocumented residents to prolonged detention without the opportunity for release on bond, in contravention of decades of agency practice and robust due process protections hitherto afforded to such residents to enable them to challenge the government’s basis for detaining them.” *Rodriguez Cabrera, v. Mattos*, No. 2:25-CV-01551-RFB-EJY, 2025 WL 3072687, at *3 (D. Nev. Nov. 3, 2025).

34. Since Respondents adopted these policies, the overwhelming majority of federal district courts have rejected ICE’s interpretation of the INA and declined to follow *Matter of Yajure Hurtado*, including the jurists in this Court. *See, e.g., Villaneva Funes v. Noem*, No. 25-cv-3860-TDC, 2026 WL 92860, at *4 (D. Md. Jan. 13, 2026); *Afghan v. Noem*, CV-SAG-25-04105, 2025 WL 3713732 (D. Md. Dec. 23, 2025); *Hernandez-Lugo v. Bondi*, Civ. No. GLR-25-3434, 2025 WL 3280772 (D. Md. Nov. 25, 2025); *Maldonado de Leon v. Baker*, Civ. No. 25-3084-TDC, 2025 WL 2968042 (D. Md. Oct. 21, 2025).

35. This Court has joined the vast majority of courts “around the country [that] have rejected [the government’s] new interpretation of the INA.” *See, e.g., Trejo-Bautista*, No. 1:26-cv-20376-KMW, ECF No. 13; *Vasquez Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025); *Aguirre Villa*, 2025 WL 3091833; *Menjivar Sanchez v. Wofford*, No. 1:25-CV-01187-SKO (HC), 2025 WL 3089712 (E.D. Cal. Nov. 5, 2025); *Salgado Mendoza v. Noem*, No. 1:25-CV-1252, 2025 WL 3077589 (W.D. Mich. Nov. 4, 2025); *Hernandez Alonso v. Tindall*, No. 3:25-CV-652-DJH, 2025 WL 3083920 (W.D. Ky. Nov. 4, 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); *Godinez-Lopez v. Ladwig*, No. 2:25-CV-02962-SHL-ATC, 2025 WL 3047889 (W.D. Tenn. Oct.

31, 2025), *Singh v. Bondi*, No. 1:25-CV-02101-SEB-TAB, 2025 WL 3029524 (S.D. Ind. Oct. 30, 2025); *Ramirez Valverde v. Olson*, No. 25-CV-1502, 2025 WL 3022700 (E.D. Wis. Oct. 29, 2025); *Aguilar Guerra v. Joyce*, 2:25-CV-534-SDN, 2025 WL 2986316 (D. Maine Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25-CV-13004, 2025 WL 2985256 (D. N.J. Oct. 23, 2025); *Caballero v. Baltazar*, No. 25-CV-03120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Merino v. Ripa*, No. 25-23845-CIV, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025); *G.S. v. Bostock*, No. 2:25-CV-01255-JNW-TLF, 2025 WL 3014274 (W.D. Wash. Oct. 8, 2025), report and recommendation adopted sub nom. *G.S. v. Bostock*, No. 2:25-CV-01255-JNW-TLF, 2025 WL 3014035 (W.D. Wash. Oct. 28, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Garcia v. Noem*, No. 25-CV-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Kostak v. Trump*, No. 3:25-CV-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Maldonado v. Olson*, No. 25-CV-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Lopez Benitez v. Francis*, 795 F.Supp.3d 475 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 25-CV-02157-PHX-DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and

recommendation adopted, No. 25-CV-02157- PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025).

36. Even when a district court orders EOIR to conduct a bond hearing through habeas petition—as has occurred more than 3,500 times since July 2025—EOIR continues to violate the law. As Jorge Artieda—a former ICE attorney and legal counsel to ICE National Headquarters—explained in a January 28, 2026 declaration, IJs, including those in the Baltimore Immigration Court, have recently demonstrated a predisposition to deny bond based on erroneous, unsupported legal standards. *See* Exhibit C (Declaration of Jorge Artieda). Mr. Artieda personally observed numerous bond hearings in the Annandale Immigration Court over three weeks in which IJs denied bond for spurious reasons, such as finding individuals to be a “flight risk” for not having sought affirmative immigration relief before being detained, irrespective of their long-term residence, deep family ties, and clean records. *Id.* at 2–5. As Mr. Artieda explained, what he “ha[s] witnessed over the past three weeks appears to be a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus,” evidencing “a deliberate campaign to render meaningless the bond hearings that this Court and others have ordered.” *Id.* at 6.

37. Mr. Artieda also explained how these developments were not limited to Annandale, but rather, that he had “communicated with numerous immigration attorneys practicing all over the United States who handle detention cases” and that his “colleagues have reported the same experience: clients who were granted federal habeas relief and ordered § 1226(a) bond hearings are now being systematically denied bond based on rationales that would not have been deemed sufficient weeks earlier.” *Id.* at 5. Ultimately, he concluded that “the consistency of these reports across multiple practitioners, representing different clients before different Immigration Judges,

suggests that this is not a matter of individual judicial discretion or case-specific circumstances,” but rather, “appears to be a coordinated institutional effort.” *Id.* at 6. These concerns reflect the need for additional safeguards, including immediate release in advance of a bond hearing, so that Ms. Santiago and her counsel are able to meaningfully prepare for and participate in any similarly impacted bond hearing that this Court may order.

38. Mr. Artieda’s observations from January 28, 2026, have been further validated by and through the Annandale Immigration Court’s continued failure to provide constitutionally adequate bond proceedings after being so ordered by this Court. *See Alvarado Lopez v. Dillman*, No. 1:25-CV-2456 (LMB/LRV), 2026 WL 688958 (E.D. Va. Mar. 11, 2026) (noting that the facts relied upon by the Immigration Court in denying bond were so tenuous that such reliance deprived petitioner of constitutionally sufficient process); *Lozano Rosales v. Simon*, No. 1:26-cv-86 (LMB/WEF), at *10 (E.D. Va. Mar. 11, 2026) (finding “most of the facts the Immigration Judge relied upon in denying Lozano Rosale’s request for release on bond violated due process.”); *Aguilon Fuentes v. Bondi*, No. 1:26-cv-00167-AJT-WEF, at *5 (E.D. Va. Feb. 24, 2026) (concluding “that the considerations upon which it was determined that Petitioner constitutes a flight risk were so lacking in probative value as to that issue that their use in determining flight risk failed to provide the Petitioner with constitutionally sufficient due process.”); *Mendez Trigueros v. Guadian*, No. 1:26-cv-00205-AJT-WBP, at *5-6 (E.D. Va. Feb. 18, 2026) (same conclusion).

39. Section 1225(b) applies only to people arriving to and seeking admission at the U.S. border. The statute’s entire 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); *Jennings v. Rodriguez*, 583

U.S. 281, 287 (2018). Accordingly, § 1225(b)(2)(A) does not apply to individuals like Ms. Santiago, who had already entered and was residing in the United States at the time of her arrest.

40. This Court has held that “an individual’s bond hearing fails to comport with due process where an Immigration Judge relies on considerations that would lead to an automatic denial of bond in all cases.” *Alvarado Lopez*, No. 1:25-cv-2456 (LMB/LRV), at *6 (citing *Argueta-Portillo v. Bondi*, 1:26-cv-122-MSN-LRV, ECF No. 16 (E.D. Va. Mar. 2, 2026)). The Baltimore Immigration Court has, on numerous occasions, demonstrated that it cannot or will not provide a fair hearing; it would be futile and a waste of judicial resources to refer Petitioner to an Immigration Judge to conduct a bond hearing if this Court grants the instant petition. *See Cabrera-Lopez v. Hyde*, No. 2:26-cv-00017-cr, 2026 WL 540131, at *9 (D. Vt. Feb. 26, 2026) (finding it futile to order a bond hearing before an IJ where a “bond redetermination hearing equates to no bond hearing at all.”); *see also Walizada v. Trump*, No. 2:25-cv-00768, 2025 WL 3551972, at *22 (D. Vt. Dec. 11, 2025). Accordingly, should this Court grant habeas relief to Ms. Santiago, it should do so in the form of immediate release, or in the alternative, by exercising its inherent authority to hold an individualized federal bond hearing on the question of Ms. Santiago’s custody.

41. In light of the overwhelming legal authority supporting these rulings and the government’s increasingly arbitrary enforcement trends, this Court has recently remedied unlawful detention in these circumstances by ordering the petitioner immediately released from custody pending a bond hearing to occur in immigration court at a later time. *See, e.g., De Leon Rosales v. Liggins*, 8:26-cv-393, Dkt. No. 11 (D. Md. Feb. 3, 2026); *Vasquez Sanchez*, 8:26-cv-331, Dkt. No. 11; *Afghan*, 2025 WL 3713732, at *3.

STATEMENT OF FACTS

42. Petitioner Juana Veronica Santiago was born in [REDACTED] 2001 in Guatemala. She entered the United States without inspection as an unaccompanied child around approximately 2016 and has resided continuously in this country for approximately ten years since that time. Ms. Santiago was placed in removal proceedings in the Baltimore Immigration Court, but on November 5, 2021, an Immigration Judge dismissed those removal proceedings. Ms. Santiago thereafter applied for and obtained SIJS status. Specifically, on May 19, 2022, her Form I-130 Petition for Amerasian, Widow(er), or Special Immigrant application and has maintained lawful presence in the United States throughout her residence here. Her priority date is December 7, 2018, meaning that she is presently eligible to apply to adjust status to become a legal permanent resident. Exhibit A (Notice of Action re Approval of SIJS).

43. Ms. Santiago is mother to a three-year-old child, [REDACTED] who was born in this country and is a U.S. citizen. Ms. Santiago is her daughter's primary caregiver. Ms. Santiago is an avid churchgoer, often attending services several times a week, participating in services and volunteering at her church. Ms. Santiago often takes care of other children in her neighborhood and is entrusted with their care while their parents work.

44. On April 16, 2026, Ms. Santiago was present at the Home Depot located at [REDACTED] in Baltimore County, where she sometimes sells homemade food in the parking lot. Ms. Santiago was accompanied by her daughter. While Ms. Santiago—who possessed valid SIJS documentation—was leaving the parking lot in her vehicle with her child, ICE agents approached and attempted to apprehend Ms. Santiago. During the encounter, a motor vehicle accident occurred while Ms. Santiago's three-year-old child was in the vehicle. Following the accident, Ms. Santiago was taken into ICE custody

and forcibly separated from her child. A passing stranger at the scene who witnessed the incident took custody of the child until Ms. Santiago's partner arrived.

45. Ms. Santiago has been in Respondents' custody since April 16, 2026, in the Baltimore Hold Room. She has not been charged with any crime. Since her detention, Ms. Santiago has been able to contact her partner at least once by telephone from custody, during which she informed him that she was being transferred to an unknown location, possibly outside the State of Maryland.

46. Ms. Santiago has remained detained at the Baltimore Hold Room without an opportunity to seek individualized review of her custody since her apprehension. During her detention, Ms. Santiago has been separated from her U.S. citizen toddler daughter, who depends upon Ms. Santiago as her primary caregiver. During her time in custody, Ms. Santiago has been given little food, little water and was forced to sleep on the floor with nothing more than a silver mylar blanket.

47. Ms. Santiago and her family have suffered immensely as a result of the emotional and psychological toll of her detention and forced separation from her toddler daughter, with no clear end in sight. The continued separation of a mother from her U.S. citizen toddler inflicts irreparable harm on both Ms. Santiago and her child.

48. If released, Ms. Santiago would reunite with her three-year-old U.S. citizen child and her the father of her child and resume her role as the child's primary caregiver. Ms. Santiago would reside with her family in the Baltimore, Maryland area, where she has lived for approximately ten years, and would continue to comply with all conditions of release and appear for all scheduled immigration proceedings.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA and the Administrative Procedure Act (APA)

8 U.S.C. § 1226(a); 5 U.S.C. § 706(2)(A)-(C)

49. Petitioner incorporates the preceding paragraphs as if fully set forth herein.

50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are present without having been admitted or paroled. By its very terms, it applies only to those noncitizens who are apprehended while they are applying for admission near the border or at a port of entry. For those like Petitioner, detention must be pursuant to § 1226(a), unless they are subject to § 1226(b)(1) § 1226(c), or § 1231.

51. Ms. Santiago cannot be subject to mandatory detention under § 1225(b)(1), including because she does not meet the criteria for Expedited Removal. *See Make the Road New York v. Noem*, No. 25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).

52. Ms. Santiago cannot be subject to mandatory detention under § 1225(b)(2), including because, as a person already present in the United States, she is not currently “seeking admission” to the United States. *See, e.g., Hasan v. Crawford*, 800 F. Supp. 3d 641 (E.D. Va. 2025).

53. Ms. Santiago cannot be subject to mandatory detention under § 1226(c), including because she has not been convicted of any crime that triggers such detention. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability”).

54. Because Ms. Santiago is not “seeking admission,” nor is she an “arriving alien[]” subject to § 1225(b), and nor does she have disqualifying criminal arrests or convictions subjecting her to § 1226(c), she is, accordingly, entitled to a bond hearing by an immigration judge pursuant

to § 1226(a). The application of § 1225(b)(2) to Ms. Santiago unlawfully mandates her continued detention and violates the INA by depriving her of her rights under § 1226(a).

55. Ms. Santiago is *prima facie* eligible for a grant of release, as she has never been convicted of any crime and maintains strong community ties in the United States.

56. To the extent that Respondents assert that *Matter of Yajure Hurtado* nevertheless requires Ms. Santiago's mandatory detention, the BIA's interpretation in that case is *ultra vires* and in conflict with the careful balance of factors clearly established in the INA with regard to bond eligibility, and is not subject to deference by this Court. *See Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). Moreover, the policy and legal theory behind *Matter of Yajure Hurtado* have now been vacated with the BIA's decision itself also being vacated as contrary to law, notwithstanding the aforementioned temporary stay thereof recently issued by the Ninth Circuit. *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *7 (C.D. Cal. Feb. 18, 2026).

57. Respondents' denial of Ms. Santiago's bond eligibility also violates the APA, as it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; and in excess of statutory jurisdiction, authority, or limitations, or short of statutory right. 5 U.S.C. § 706(2)(A)-(C).

COUNT II

Violation of Substantive Due Process

58. Ms. Santiago incorporates the preceding paragraphs as if fully set forth herein.

59. The Due Process Clause's guarantee to substantive due process prohibits the government from infringing upon certain "fundamental" liberty interests, "unless the infringement is narrowly tailored to support a compelling government interest." *Reno v. Flores*, 507 U.S. 292,

302 (1993). It applies to “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

60. The Government’s interest in detaining a noncitizen during removal proceedings is limited to ensuring appearance and protecting the community. *See Demore v. Kim*, 538 U.S. 510, 531 (2003). Indefinite detention without an individualized determination is punitive and arbitrary, violating substantive due process. *Zadvydas*, 533 U.S. at 690. Here, Ms. Santiago’s detention is not based on any individualized finding of flight risk or dangerousness. It is based solely on an erroneous legal classification (as an “applicant for admission”) and on pretextual flight risk findings that ignore long-standing community ties. This blanket detention is not “narrowly tailored to support a compelling government interest,” *Flores*, 507 U.S. at 302, and is therefore substantively unreasonable and unconstitutional.

61. To that end, immediate release, with all personal property, would be an appropriate remedy for Respondents’ constitutional violations in this case, including the lack of pre-deprivation notice or individualized review before Ms. Santiago’s arrest, which cannot be remedied by a post-deprivation hearing. *See Muev v. O’Neill*, No. 2:25-cv-07172-JMG, ECF No. 4 at *1 n.1 (E.D. Pa. Jan. 13, 2026) (granting immediate release after finding mandatory detention without the opportunity for a bail hearing unlawful); *Alfaro Herrera v. Baltazar*, No. 1:25-CV-04014, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner had been previously released to the community and holding a bond hearing would prolong his unlawful detention, “[r]espondents’ violations of Petitioner’s rights are best remedied by ordering Petitioner’s immediate release from immigration detention.”); *Crespo Tacuri v. Genalo*, No. 1:25-CV-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (ordering release, finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment);

Qasemi v. Francis, No. 1:25-CV-10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an adequate remedy for the due process violations in petitioner’s sudden arrest and detention); *Pinchi v. Noem*, 792 F.Supp.3d 1025, 1036 (N.D. Cal. July 2025) (ordering immediate release and granting preliminary injunction against re-detention, finding “re-detention without a pre-detention hearing before a neutral decisionmaker is likely unconstitutional.” (internal quotations omitted)).

62. Where detention is unlawful and no constitutionally adequate hearing has been provided, continued custody cannot stand. *Roshniashvili v. Allen*, No. 2:26-CV-93, 2026 WL 446657, at *8 (S.D.W. Va. Feb. 17, 2026) (finding the proper remedy for unlawful detention to be immediate release, noting that “there is little chance the Government would actually hold a bond hearing, and there is no chance any hearing that occurred would comport with due process.”) (citing *Briceno Solano v. Mason*, No. 2:26-CV-45, 2026 WL 311624, at *20 (S.D.W. Va. Feb. 4, 2026)); *Larrazabal-Gonzalez v. Mason*, No. 2:26-CV-49, 2026 WL 221706, at *5 (S.D.W. Va. Jan. 28, 2026) (“There is no process to await. The Constitution requires release.”); *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that Government’s repeated use of unlawful detention policies across the country caused petitioners to “sit in jail waiting for a judicial decision,” ordering immediate release instead of causing additional delay with a bond hearing).

63. Though the INA entitles Ms. Santiago to a bond hearing under 8 U.S.C. § 1226(a), a bond hearing conducted by the immigration court would not provide her sufficient process to safeguard her significant liberty interest. As Jorge Artieda—a former ICE attorney and legal counsel to ICE National Headquarters—explained in a January 28, 2026 sworn declaration, IJs have recently demonstrated a predisposition to deny bond based on erroneous, unsupported legal

standards. Ex. D, Sworn Declaration of Jorge Artieda. Mr. Artieda personally observed numerous IJ-conducted bond hearings over the past three weeks in which IJs denied bond for spurious reasons, such as finding individuals to be a "flight risk" for not having sought affirmative immigration relief before being detained, irrespective of their long-term residence, deep family ties, and clean records. *Id.* at 2–5. As Mr. Artieda explained, what he "ha[s] witnessed over the past three weeks appears to be a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus," evidencing "a deliberate campaign to render meaningless the bond hearings that this Court and others have ordered." *Id.* at 6.

64. Indeed, EOIR has reassigned several IJs who were granting bond or other relief. Mr. Artieda notes that "the abrupt reassignment of [IJs] who were granting bond and questioning government positions, the immediate and uniform shift to systematic denial of bond, and the reliance on a narrow set of rationales across multiple [IJs] and cases—suggests what appears to be a coordinated effort by the Executive Office for Immigration Review (EOIR) and the Department of Justice to undermine federal habeas relief." *Id.*

65. "[D]ue process requires a 'neutral and detached judge in the first instance.'" See *Concrete Pipe & Products of California, Inc. v. Construction Laborers Pension Tr. For Southern California*, 508 U.S. 602, 617 (1993) (quoting *Ward v. Village of Monroeville*, 409 U.S. 57, 61–62 (1972)). Several other courts have found that, given the concerted efforts of IJs to deny bond following the grant of habeas relief, the only proper remedy is release. See, e.g., *Roshniashvili v. Allen*, No. 2:26-cv-93, 2026 WL 446657, at *8 (S.D. W. Va. Feb. 17, 2026) (finding due process violation and ordering release for noncitizen ICE detained after custody "redetermination" where ICE failed to explain basis for redetermination and conceded he was not a flight risk or danger);

Briceno Solano v. Mason, No. 2:26-cv-45, 2026 WL 311624, at *20 (S.D. W. Va. Feb. 4, 2026) (concluding, in similar case, that "a bond hearing would be futile" and crediting Mr. Artieda's declaration, because "there is little chance the Government would actually hold a bond hearing, and there is no chance any hearing that occurred would comport with due process"). This Court should order Ms. Santiago's immediate release.

66. The Government's failure to provide Ms. Santiago with a pre-detention hearing cannot now be adequately remedied through provision of a post-detention hearing. This fact renders immediate release—or in the alternative, immediate release pending a bond hearing—the only means by which the deprivation of due process suffered by Ms. Santiago might now be remedied.

67. The Government violates Ms. Santiago's rights to substantive due process by continuing her detention without opportunity to seek administrative review of her custody. Her rights continue to be violated every day that she remains detained in this manner.

COUNT III Violation of Procedural Due Process

68. Petitioner incorporates the preceding paragraphs as if fully set forth herein.

69. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

70. This fundamental principle of our free society is enshrined in the Fifth Amendment's Due Process Clause, which specifically forbids the Government to "deprive[] any person ... of liberty ... without due process of law. U.S. Const. Amend. V.

71. "[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." *Id.* at 693.

72. “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*, 533 U.S. at 690. The Supreme Court has “repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); *see also Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

73. Respondents’ policy, as implemented through *Matter of Yajure Hurtado* and the January 13, 2026, EOIR guidance, and in defiance of the *Maldonado Bautista* judgment prior to its temporary stay, categorically denies Petitioner a bond hearing, as required by law. Respondents’ outright refusal to provide any process whatsoever to determine the necessity of Petitioner’s detention is a per se violation of procedural due process. *See, e.g., Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 232 (3d Cir. 2011) (“At its core, procedural due process guarantees an opportunity to be heard at a meaningful time and in a meaningful manner.”); *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (“the Constitution requires some kind of a hearing before the State deprives a person of liberty of property”). By instructing IJs that they lack jurisdiction to consider bond for individuals like Petitioner, Respondents have deprived her of the most basic procedural safeguard—a hearing. This is the antithesis of due process.

74. Additional procedures are required to ensure that Petitioner receives a fair bond hearing. As Mr. Artieda explained in his declaration, “the abrupt reassignment of [IJs] who were granting bond and questioning government positions, the immediate and uniform shift to

systematic denial of bond, and the reliance on a narrow set of rationales across multiple [IJs] and cases—suggests what appears to be a coordinated effort by the Executive Office for Immigration Review (EOIR) and the Department of Justice to undermine federal habeas relief.” Ex. 1, Sworn Declaration of Jorge Artieda at 6.

75. Due process requires a meaningful opportunity to be heard before a neutral decision-maker. To ensure that Petitioner receives a fair bond hearing, she asks this Court to impose two sets of procedures consistent with due process: 1) that she be released immediately, with all personal property, pending a future bond hearing for which she can adequately prepare from outside detention, *see Bautista Cabral*, No. 1:26-cv-777-LMB-WBP, ECF No. 5 (ordering immediate release with all personal property, pending bond hearing within 14 days); and 2) that the Government bear the burden of proof by clear and convincing evidence at the bond hearing. *See Camaja Blanco v. Noem, et al.*, No. 3:26-cv-00183-MHL, ECF No. 8, 9 at *13. Release pending bond is particularly imperative in light of recent examples of ICE failing to timely produce noncitizens in their custody for bond hearings in accordance with this Court's orders. *See, e.g., Zelaya-Hernandez v. Liggins*, No. 1:26-cv-674, ECF No. 12 (D. Md. Feb. 26, 2026) (noting that ICE did not meet deadline to transfer petitioner back to Maryland for bond hearing and ordering additional measures to ensure her appearance); *Cruz Gomez v. Noem*, No. 1:26-cv-269, ECF No. 9 (D. Md. Feb. 6, 2026) (ordering petitioner's release where respondents failed to conduct bond hearing by Court's deadline).

76. Under the framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976), detaining Petitioner absent any change in circumstances and while she currently has Deferred Action for Childhood Arrivals and categorically denying her an individualized review of her custody based

on the *Matter of Yajure Hurtado* decision violates procedural due process for several reasons, including but not limited to:

- i. Petitioner's private interest in freedom from imprisonment weighs heavily. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (“the most significant liberty interest there is—the interest in being free from imprisonment). Every additional day of detention inflicts significant and irreparable harm on her health, well-being, and ability to assist in her own defense. Her ongoing removal proceedings in immigration court, proceeding on an expedited basis while she is detained, makes the deprivation of liberty and the obstruction of her legal preparation especially acute and unjustifiable. Petitioner was detained without any predetention determination as to whether she posed a flight risk or any risk of dangerousness, and sans any material change in circumstances triggering her sudden arrest and detention; indeed, Petitioner held valid DACA status at the time of her arrest, which did not expire until April 19, 2026. Rather, “it appears [Petitioner] was detained simply because” she was readily identified by Respondents as a noncitizen. *Hyppolite v. Noem*, No. 25-cv-4304, 2025 WL 2829511, at *34-35 (E.D.N.Y. Oct. 6, 2025).
- ii. The risk of erroneous deprivation of liberty is extremely high, as Respondents’ new interpretation of immigration detention provisions categorically deprives individuals such as Petitioner from the opportunity to prove, as required by the INA, that bond is appropriate. Respondents have not alleged any change in circumstances that would warrant

Petitioner's detention; indeed, Petitioner's prior removal proceedings were dismissed and she obtained and maintained valid SIJS status. Respondents' new interpretation of the INA's detention provisions categorically deprives Petitioner of any opportunity to demonstrate—through an individualized hearing, as contemplated by the INA—that she is neither a flight risk nor a danger to the community. **Petitioner is precisely the type of individual for whom discretionary release under § 1226(a) was designed: non-dangerous individuals who are not flight risks because of their community ties.** “The purpose of a bond hearing employed when the government seeks to exercise its discretion in detaining a noncitizen under § 1226(a) is to provide procedures which will better ensure that people who are, in fact, a risk of flight or danger to the community are the people [who] are ultimately detained.” *Hyppolite v. Noem*, No. 25-cv-4304, 2025 WL 2829511, at *34-35 (E.D.N.Y. Oct. 6, 2025).

- iii. The burden on the Government is low, as until Respondents' abrupt re-interpretation of the INA in *Matter of Yajure Hurtado*, for decades, IJs regularly conducted individualized bond hearings for individuals like Petitioner. Her detention is, as this Court has recognized, not authorized by § 1225, and its continuation sans individualized review serves no legitimate purpose as such. *See Lopez Benitez*, 795 F.Supp.3d at 495-96 (“The Attorney General’s discretion to detain individuals under 8 U.S.C. § 1226(a) is valid where it advances a legitimate governmental purpose such as ensuring the appearance of aliens at future immigration proceedings and

preventing danger to the community.”) (cleaned up). The Government lacks an interest in the erroneous detention of individuals who do not pose a danger or flight risk. This Court has recognized that the cost of continued detention significantly exceeds the cost of providing a pre-detention hearing. *Pineda-Berrios v. Lyons*, No. 1:25-cv-2332 (LMB/LRV), 2026 WL 384159, at *7 (E.D. Va. Feb. 11, 2026). Furthermore, while the Government has an interest in the efficient administration of immigration laws, nothing prevents them from so administering the law whilst simultaneously affording individuals, like Ms. Santiago, with their core due process right of notice and an opportunity to be heard relative to their detention. *Id.*

77. Ms. Santiago’s continued detention, sans opportunity for individualized review, is accordingly unlawful and violative of her constitutionally protected rights.

COUNT IV Access to Records

78. Petitioner incorporates the preceding paragraphs as if fully set forth herein.

79. Ms. Santiago also requests that the Court order Respondents to produce all records relating to decisions on her arrest and detention held by Respondents, including, but not limited to, DHS Form I-286, Notice of Custody Determination, and all other records bearing upon the “true cause of the [petitioner’s] detention,” 28 U.S.C. § 2243, as part of their response to the petition. *See* 28 U.S.C. § 2247 (“On application for a writ of habeas corpus documentary evidence, transcripts of proceedings upon arraignment . . . shall be admissible in evidence.”); *Harris v. Nelson*, 394 U.S. 286, 292 (1969) (“[T]he power of inquiry on federal habeas is plenary.”) (punctuation and citation omitted).

80. Review of these records would be directly relevant and probative to the Court's inquiry into Petitioner's statutory and constitutional claims, and production of these records would be a minimal burden on Respondents. At a minimum, Respondents are far better positioned to provide this evidence. *See Harris*, 394 U.S. at 291 (“[T]his Court has emphasized, taking into account the office of the writ and the fact that the petitioner, being in custody, is usually handicapped in developing the evidence needed to support in necessary detail the facts alleged in his petition . . .”).

81. The existence (or nonexistence) of records regarding Respondents' custody determination, legal justifications, and factual basis for Petitioner's arrest and detention are all directly relevant to her claims in this petition for habeas corpus. *See Harris*, 394 U.S. at 300 (“[W]here specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is confined illegally and is therefore entitled to relief, it is the duty of the court to provide the necessary facilities and procedures for an adequate inquiry.”).

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Petitioner shall not be transferred outside of this jurisdiction while this habeas petition is pending;
- c. Issue an Order requiring Respondents to show cause within three days why this Petition should not be granted;
- d. Declare that Petitioner's detention is unlawful, that she is not an applicant for admission “seeking admission” or “an arriving alien” subject to 8 U.S.C. § 1225(b);

- e. Declare that Respondents' actions, as set forth herein, violate the INA, APA, and Petitioner's substantive and procedural due process rights;
- f. Declare that Respondents may properly detain Petitioner, if at all, only pursuant to 8 U.S.C. § 1226(a);
- g. Issue a Writ of Habeas Corpus requiring that Respondents immediately release Petitioner, with all personal property, outright, or, in the alternative, release Petitioner pending a bond hearing pursuant to 8 U.S.C. § 1226(a), at which Respondents bear the burden of demonstrating Petitioner's dangerousness and flight risk;
- h. Order Respondents to produce all records relating to decisions on Petitioner's arrest and detention held by Respondents, including but not limited to DHS Form I-286, Notice of Custody Determination, and all other records bearing upon the "true cause of Petitioner's detention;"
- i. Issue appropriate injunctive relief; and
- j. Grant any other and further relief that this Court deems just and proper.

Dated: April 17, 2026

Respectfully submitted,

s/ Eli Zieve-Berns

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Pro Bono
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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I or my colleagues have discussed with Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 17, 2026

/s/ Eli Zieve-Berns

Eli Zieve-Berns (MD Bar No. 1812110031)

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of electronic filing (NEM) to all counsel of record. I will furthermore send true copies by USPS Certified Priority Mail with electronic return receipt to the following individuals:

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Markwayne Mullin, Secretary
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Dated: April 17, 2026

/s/ Eli Zieve-Berns

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