

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

C.S.R.

Petitioner,

vs.

CASE NO.:

JASON STREEVAL, in his official capacity as
Warden of Stewart Detention center; and
LADEON FRANCIS, *Field Office Director for ICE*
Atlanta Field Office, and
TODD LYONS, in his official capacity as *Acting*
Director of Immigration and Customs Enforcement;
MARKWAYNE MULLIN, *Secretary of*
Homeland Security; and
TODD BLANCHE, *Acting U.S. Attorney General.*

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This Petition challenges the ongoing and unlawful detention of Petitioner, C.S.R. (Petitioner), A# [REDACTED] by U.S. Immigration and Customs Enforcement (ICE) at the Stewart Detention Center, Georgia. This detention, unlawful from its inception, began with a warrantless arrest that lacked statutory authority and is perpetuated by Respondents' misapplication of mandatory detention statutes meant only for noncitizens arriving at the border. Petitioner is neither a flight risk nor a danger to the community. See Exhibit 1 (ICE Locator). This case fits within this Court's Standing Order No. 2026-01 regarding the treatment of immigration detainees entitled to relief

under *J.A.M. v. Streeval* and *P.R.S. v. Streeval* available at the following Court website link: <https://www.gamd.uscourts.gov/sites/gamd/files/general-or-des/2241StandingOrder.pdf>

2. The Petitioner will soon be filing a motion to proceed under a pseudonym throughout the instant Petition for security and fear of harm reasons for her and her family members in her home country because she has a pending Asylum application and the U.S. laws provide for robust privacy protections for asylum applicants.
3. Petitioner's detention is unlawful under every conceivable statutory theory, trapping Respondents in a legal "Catch-22" of their own making. The detention is void *ab initio* because it began with an illegal warrantless arrest and is now perpetuated under a statute that has no application to Petitioner. The Immigration and Nationality Act (INA) provides only two potential authorities for a civil immigration arrest in the interior of the country, and Respondents satisfied neither.
4. The Immigration and Nationality Act ("INA") establishes two distinct detention frameworks. Section 1225 governs inspection and mandatory detention of noncitizens "arriving" at the border or otherwise "seeking admission," while 8 U.S.C. § 1226 governs arrest and discretionary detention of noncitizens apprehended "in the United States" on a warrant, with the possibility of release on bond or recognizance. Upon information and belief, Petitioner entered in October 2023, was encountered by DHS upon entry, entered under INA § 236 or 8 U.S.C. § 1226 (a) and released under an Order of Release on Recognizance (OREC) in February 2024 and then lived and worked in the interior. Therefore, she falls squarely within § 1226, not § 1225. Note

that Petitioner is detained and counsel has not reviewed any OREC paperwork; however based on the factual history of the case known to counsel (that Petitioner was processed for a Notice to Appear (NTA) when she entered through the border, and later released and apprehended upon check-in), it is almost a certainty she was paroled under 8 U.S.C. § 1226 (a).

5. Petitioner's detention is unlawful on two independent grounds. First, ICE's warrantless interior arrest violated the statutory arrest framework. Section 1226(a) requires an arrest "on a warrant," and the narrow warrantless arrest exception in 8 U.S.C. § 1357(a)(2) applies only where an officer has reason to believe the person is likely to escape before a warrant can be obtained. Section 1225(b) cannot be used to retrofit that interior seizure into a border style "arriving alien" detention. The arrest and ensuing custody are therefore void *ab initio*.
6. Second, even assuming § 1226(a) applies, DHS unlawfully revoked Petitioner's prior release on an Order of Release on Recognizance (OREC), without complying with mandatory custody regulations or basic due process. The revocation decision was not made by an authorized official, was not accompanied by a new written custody determination or notice and was not preceded by any pre-deprivation hearing before a neutral decisionmaker, despite Petitioner's substantial conditional liberty interest created by Petitioner's prior release and long-standing compliance.
7. Most federal courts around the country have rejected the government's attempt to detain long settled, interior apprehended noncitizens under § 1225(b) on the theory that they remain perpetual "applicants for admission," and have held that such

individuals are detained – and bond eligible – under § 1226(a). Petitioner’s continued custody under § 1225(b) thus contravenes the INA’s text and structure, the governing regulations, and the APA/*Accardi* doctrine requiring agencies to follow their own rules. See Exhibit 2 hundreds of such decisions. See Exhibit 2, all rejecting Respondents’ position. See also the landmark cases from this Court rejecting the government’s position and agreeing with Petitioner’s that is entitled to a bond hearing: *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga., Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330, 2025 WL 3269947 (M.D. Ga., Nov. 24, 2025). Since habeas relief is individualized and cannot be brought as a class action, each case has to be litigated separately.

8. Petitioner seeks (1) a writ of habeas corpus under 28 U.S.C. § 2241 ordering her immediate and unconditional release because her arrest and detention are unlawful ab initio; and (2) in the alternative, a declaratory judgment that her detention is governed by 8 U.S.C. § 1226(a) and an order requiring a prompt bond hearing before an Immigration Judge at which the government bears the burden to justify continued detention by clear and convincing evidence of danger or flight risk. Petitioner also seeks narrowly tailored injunctive relief to prevent re-detention under § 1225(b) or the vacated July 2025/*Yajure* framework absent changed circumstances and full compliance with governing statutes, regulations, and due-process requirements.

II. JURISDICTION

A. This Court Has Jurisdiction Under 28 U.S.C. § 2241 and § 1331

9. This Court has jurisdiction under several legal provisions, including 28 U.S.C. § 2241, which grants federal courts the authority to issue writs of habeas corpus, and 28 U.S.C. § 1331, which provides for federal question jurisdiction. Jurisdiction over habeas claims is conferred by 28 U.S.C. § 2241, while non-habeas claims for declaratory and injunctive relief arise under 28 U.S.C. § 1331, the APA, and the Declaratory Judgment Act.
10. Additionally, jurisdiction is supported by Article I, § 9, cl. 2 of the Constitution, known as the Suspension Clause, and Article III, Section 2, which addresses the Court's authority to hear constitutional issues raised by the Petitioner. The Petitioner seeks immediate judicial intervention to address ongoing violations of constitutional rights by the Respondents. This action is grounded in the United States Constitution, the Immigration & Nationality Act of 1952, as amended (INA), 8 U.S.C. § 1101 *et seq.*, and the APA, 5 U.S.C. § 551 *et seq.* Furthermore, the Court may also exercise jurisdiction under 28 U.S.C. § 1331, as the action arises under federal law, and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
11. The Court has authority to issue a declaratory judgment and to grant temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure (FRCP), as well as 28 U.S.C. §§ 2201-2202. Additionally, the Court can utilize the All Writs Act and its inherent equitable powers to provide such

relief. Furthermore, the Court has the authority to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

12. This Court possesses federal question jurisdiction under the APA to “hold unlawful and set aside agency action” deemed “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” as outlined in 5 U.S.C. § 706(2)(A). In the absence of a specific statutory review process, APA review of final agency actions can proceed through “any applicable form of legal action,” which includes actions for declaratory judgments, writs of prohibitory or mandatory injunction, or habeas corpus, in a court of competent jurisdiction, as specified in 5 U.S.C. § 703.
13. In *I.N.S. v. St. Cyr*, the Supreme Court held that federal courts retain *habeas corpus* jurisdiction under 28 USC § 2241, despite restrictions on judicial review enacted under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). 533 U.S. 289 (2001). Consequently, section 2241 habeas review remains available to Petitioner.
14. The U.S. Supreme Court has recognized district courts’ jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law. Even though the government may detain individuals during removal proceedings, *Demore v. Kim*, 538 U.S. 510 (2003), (although that case involved detention under §1226(c) of certain criminal aliens) there are limitations to this power of the executive branch. Limitations like the Due Process Clause restrict the Government’s power to detain noncitizens. It is well settled that individuals in deportation

proceedings are entitled to due process of law under the Fifth Amendment. *Reno v. Flores*, 507 U.S. 292, 306, (1993). Courts must review immigration procedures and ensure that they comport with the Constitution.

15. Federal courts have retained the statutory authority to grant writs of habeas corpus since enactment of the Judiciary Act of 1789. In *Felker v. Turpin*, 518 U.S. 651 (1996), the Supreme Court declined to find a repeal of § 2241 by implication as to its original habeas corpus jurisdiction. See also *Boumediene v. Bush*, 553 U.S. 723 (2008). In addition to the Supreme Court in many cases, all Circuit Courts of Appeals have recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law.
16. In this case, Petitioner asserts substantial constitutional violations—including deprivation of liberty without due process, arbitrary and capricious agency action, violations of the *Accardi* doctrine, and other injuries without notice or opportunity to be heard. These claims fall squarely within the scope of habeas review preserved by statute and recognized by controlling precedent. Accordingly, this Court has both the authority and the obligation to adjudicate the constitutional and statutory claims presented in this Petition and to grant appropriate relief to remedy ongoing violations of Petitioner's rights.

B. The INA's Jurisdictional-Channeling Provisions Are Inapplicable

17. Petitioner's claims challenge only the Petitioner's civil immigration detention and the procedures used to prolong it—not the merits of removability or any final order of

removal—and therefore fall outside 8 U.S.C. § 1252(b)(9)’s channeling provision. *See Jennings v. Rodriguez*, 583 U.S. 281, 291-292 (2018) (detention challenges are not “questions of law or fact arising from” removal proceedings). Consistent with that framing, any injunctive relief sought here is strictly as-applied to Petitioner—for example, directing Petitioner’s release under § 1226(a) or barring application of § 1225 as to Petitioner—and does not “enjoin or restrain the operation” of any statute within § 1252(f)(1)’s bar. In any event, § 1252(f)(1) permits individualized, as-applied relief for a single noncitizen, even while prohibiting class-wide injunctions. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–49 (2022).

18. Section 1252(f)(1) does not bar the individualized injunctive relief sought here. That provision limits lower courts’ authority to “enjoin or restrain the operation” of the INA’s detention and removal provisions on a class-wide or programmatic basis but expressly preserves injunctive relief “with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.” 8 U.S.C. § 1252(f)(1); *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–50 (2022). Petitioner seeks only as applied relief tailored to Petitioner—e.g., directing Petitioner’s release under § 1226(a) or precluding DHS from enforcing the “arriving alien” definition of § 1225 toward Petitioner. That relief neither halts the general operation of any INA provision nor provides class-wide relief and thus falls squarely within § 1252(f)(1)’s carveout.
19. Section 1252(g) is likewise inapplicable. It is a “narrow” jurisdictional bar that applies only to three discrete decisions or actions: “to commence proceedings, adjudicate

cases, or execute removal orders.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Petitioner does not challenge any such decision. Petitioner challenges ongoing civil detention and DHS’s use of an unlawful interpretation to nullify the plain language of the INA and its regulations as applicable to these agencies. Such detention related claims and challenges to custody procedures fall outside § 1252(g). *See id.* at 482–83; cf. *Jennings v. Rodriguez*, 583 U.S. 281, 381–32 (2018) (§ 1252(b)(9) does not channel detention claims).

20. Section 1252(e)(3) is likewise inapplicable as it is narrowly tailored to channel systemic or facial challenges to the validity of the expedited removal “system” or its implementing regulations and written policies to the U.S. District Court for the District of Columbia, and only within 60 days of implementation. It does not bar as-applied, individualized habeas challenges to the legality or constitutionality of a particular noncitizen’s detention under § 1225(b)(2) or whether § 1225 governs Petitioner’s detention or § 1226. The text of § 1252(e)(3) is explicit: it covers “[c]hallenges on the validity of the system” and review of “whether such a regulation, or a written policy directive, written policy guideline, or written procedure ... is not consistent with applicable provisions of this title or is otherwise in violation of law.” It does not preclude review of the legality of detention as applied to a specific individual, nor does it bar habeas review of constitutional claims or claims that the government is misapplying the statute in a particular case.

21. To prevent ouster of this Court’s habeas jurisdiction, the Court should, pursuant to 28 U.S.C. § 1651(a) (All Writs Act) and 28 U.S.C. § 2241, issue an immediate limited order

prohibiting Respondents from transferring Petitioner outside the court's District or otherwise changing Petitioner's immediate custodian without prior leave of Court while this action is pending. Such relief is necessary in aid of jurisdiction because habeas is governed by the district-of-confinement/immediate-custodian rule, and transfer can frustrate effective review. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441-42 (2004); *Ex parte Endo*, 323 U.S. 283, 307 (1944); *FTC v. Dean Foods Co.*, 384 U.S. 597, 603-05 (1966).

III. VENUE

22. Venue is proper in the United States District Court for the Middle District of Georgia because Petitioner is currently detained at the Stewart Detention Center, Lumpkin, Georgia, under the custody of the Department of Homeland Security (DHS). Respondent Jason Streeval, as the Warden of Stewart Detention Center, is the Petitioner's immediate custodian and Respondents exercise authority over Petitioner's custody in this jurisdiction, as supported by *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). Habeas petitions generally are filed in the district court with jurisdiction over the filer's place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241. Additionally, with respect to Petitioner's non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. § 1391(e)(1)(B). The Respondents are officers of United States agencies, the Petitioner is detained within this District, and there is no real property involved in this action.

Venue is therefore proper in this Court.

IV. PARTIES

23. Petitioner, C.S.R., is a 27-year-old noncitizen who entered the United States on or about October 13, 2023, near Ciudad Juárez, Mexico. On or about March 26, 2026, Petitioner appeared for a scheduled check-in with Immigration and Customs Enforcement in Charlotte, North Carolina, at which time she was taken into custody without explanation and, shortly thereafter, transferred to the Stewart Detention Center in Lumpkin, Georgia, where she remains detained pending the outcome of her immigration proceedings.
24. Respondent Jason Streeval is the Jailer/Warden of Stewart Detention Center, Lumpkin, Georgia. As such, Respondent Jason Streeval is responsible for the operation of the Detention Center where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Because ICE contracts with private and county-operated detention facilities to house immigration detainees, Respondent Jason Streeval has immediate physical custody of the Petitioner and is sued in his official capacity.
25. Respondent Ladeon Francis is the Field Office Director for the ICE Atlanta Field Office. As such, Respondent Francis is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Francis is being sued in his official capacity. He is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took

place under his direction and supervision. He is the immediate *legal* custodian of Petitioner.

26. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Lyons is being sued in his official capacity.
27. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Mullin is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.
28. Respondent Todd Blanche is the Acting Attorney General of the United States and is sued in his official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as his designees at the Executive Office for Immigration Review (EOIR).
29. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief – such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA’s waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651 – necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody

regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).

30. Petitioner acknowledges, consistent with *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that the proper respondent to the habeas claim is the immediate custodian, and does not rely on the federal officials as “habeas respondents.” Rather, Petitioner names these federal officials in their official capacities solely to ensure that the Court can issue effective relief on non-habeas claims, such as declaratory and injunctive relief, and to direct agency action to those with actual authority to implement it. Should the Court find these officials improper as respondents to the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as respondents for the non-habeas claims. Maintaining these officials as parties is necessary to ensure that, if relief is granted, the responsible agency officials cannot simply re-arrest Petitioner or otherwise frustrate the Court’s order by invoking their erroneous interpretation of the INA. This approach is consistent with *Padilla* and ensures that the Court’s orders are both effective and enforceable.

V. STATEMENT OF FACTS AND PROCEDURAL HISTORY

31. Petitioner, C.S.R., is a 27-year-old noncitizen who entered the United States on or about October 13, 2023, near Ciudad Juárez, Mexico. On that same day, she was encountered and apprehended by U.S. immigration authorities and DHS while crossing the border. She was immediately detained and taken into custody at the Otero County Processing Center in New Mexico where she remained detained for approximately three months. During this period, she was subjected to a series of transfers between immigration detention facilities. Specifically, Petitioner was temporarily relocated to a facility in Arizona for several days, then transferred to a detention facility in Louisiana for approximately two weeks and subsequently returned to the Arizona facility for an additional short period. She was ultimately transferred back to the Otero County Processing Center for a couple of days.
32. On or about February 2024, Petitioner was ultimately released at a non-profit organization location that assists individuals recently released from immigration custody. At that time, Petitioner was provided with a cellular phone and instructed to remain available for communication with a Customs and Border Protection ("CBP") agent, including responding to calls and submitting photographic check-ins as directed.
33. Upon information and belief, she was released pursuant to an Order of Release on Recognizance (OREC), pursuant to 8 U.S.C. 1226(a), after DHS determined she was not a flight risk or danger and to the extent she was a flight risk, it could be mitigated under the OREC terms of release. The Petitioner has been complying with those conditions

of release to date, for about two years. Following her release, Petitioner established her residence in Kinston, North Carolina, where she lived and worked while complying with immigration reporting requirements.

34. After entering the United States, the nonprofit organization referred Petitioner to another non-profit agency for assistance with immigration-related applications. With their assistance, Petitioner applied for asylum, employment authorization, a Social Security number, and related documentation between approximately April and June 2024. She ultimately received her employment authorization, Social Security number, and associated documentation in or around May 2025.
35. For a couple of years following her release from custody and entry into the United States, Petitioner remained in the Kinston, North Carolina area and complied with immigration supervision requirements. She has no criminal history, no arrests, and no prior history of immigration detention, aside from her initial detention upon her arrival in October 2023. During this time, she has maintained stable work and established community ties.
36. Petitioner complied with all requirements imposed upon her by immigration authorities following her release, including maintaining communication and appearing for scheduled check-ins. On or about March 26, 2026, Petitioner appeared for a scheduled check-in with U.S. Immigration and Customs Enforcement in Charlotte, North Carolina. Despite her full compliance with all prior requirements, Petitioner was taken into custody at that time. No reason for her detention was provided.

37. Approximately two days later, Petitioner was transferred to the Stewart Detention Center in Lumpkin, Georgia, where she remains detained. Since her detention, immigration officials have approached Petitioner on a weekly basis and requested that she sign documents agreeing to voluntary self-deportation. Petitioner has consistently refused to do so.
38. Petitioner is scheduled for a Master calendar hearing in removal proceedings on May 8, 2026, at 8:30 a.m., to be conducted via internet-based platform before Immigration Judge Peter T. McCary. *See* Exhibit 3 (EOIR).
39. Petitioner was arrested in the interior of the United States more than two (2) years after entry and is therefore improperly detained under 8 U.S.C. § 1225. Petitioner would also be improperly detained under 8 U.S.C. §1226(a) because ICE did not have a warrant for arrest when they detained Petitioner. Had they issued a warrant, Petitioner's arrest under 8 U.S.C. § 1226(a), which provides for discretionary bond or release on recognizance, may have been proper. Respondents have classified her as an "arriving alien" and detained him under 8 U.S.C. § 1225(b)(2) – rendering Petitioner ineligible for bond under their new, unlawful policy.
40. Because all Respondents continue to treat Petitioner as detained under § 1225(b), any request for bond redetermination before an Immigration Judge would be futile, as the Immigration Court has already disclaimed jurisdiction over such requests. Accordingly, habeas relief is the only available and effective remedy to secure Petitioner's release or a lawful custody hearing.
41. Petitioner is neither a danger nor a flight risk. Petitioner has lived in the same

community for approximately two years and complied with all reporting requirements until the date of arrest by ICE without any changed circumstances. Less-restrictive alternatives remain available and adequate, such as release on recognizance or posting a low bond.

42. Prolonged detention under these circumstances imposes unnecessary hardship on Petitioner and his family and violating Petitioner's right to due process and freedom from arbitrary detention.
43. As of the time of filing of this Writ of Habeas, Petitioner remains confined to the Stewart Detention Center, Lumpkin, Georgia, solely because of ICE's invocation of its new interpretation that Petitioner is an "arriving alien" or "applicant for admission" and is therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)
44. Accordingly, it would be futile for Petitioner to request a bond for release from an Immigration Judge (IJ). Due to the binding nature of *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), all immigration courts known to counsel are denying bond requests for similarly situated noncitizens, making habeas the only effective remedy. Similarly, even in cases an IJ would grant bond, ICE would appeal it which would leave Petitioner incarcerated through the appeal, which would take months and end up dismissed based on *Yajure Hurtado*. In sum, because all Respondents continue to treat Petitioner as detained under § 1225(b), any request for bond redetermination before an Immigration Judge (IJ) would be futile and thus, habeas relief is the only available and effective remedy to secure Petitioner's release or a lawful custody hearing.

45. Petitioner is similarly situated to the nationwide “Bond Eligible Class” certified in *Maldonado Bautista v. Santacruz*, No. 5:25cv01873SSSBFM (C.D. Cal.), which, in substance, encompasses noncitizens who entered the United States without inspection, were apprehended in the interior of the country, are or were placed in removal proceedings under 8 U.S.C. § 1229a, and are or were detained by DHS under 8 U.S.C. § 1225(b) based solely on their entry without inspection rather than under 8 U.S.C. § 1226(a). The Final Judgment in *Maldonado Bautista* declares that such individuals are subject to discretionary bond under § 1226(a) and vacates DHS’s contrary policy.
46. Petitioner satisfies each element of the applicable class definition. First, she entered the United States on or about October 13, 2023, near the border in Texas, where she was encountered by immigration authorities and granted parole into the country. Second, she was apprehended in the interior of the United States when she appeared for a scheduled check-in appointment with U.S. Immigration and Customs Enforcement (“ICE”) in Charlotte, North Carolina on March 26, 2026. Upon presenting herself, ICE officers took her into custody without explanation. She transferred to Stewart Detention Center in Lumpkin, Georgia, where she remains detained.
47. Third, Petitioner has been placed in removal proceedings under 8 U.S.C. § 1229a before the immigration court. Fourth, ICE is detaining Petitioner under 8 U.S.C. § 1225(b)(2) and treating her as an “arriving alien” or “applicant for admission” solely because of her entry without inspection, and not under 8 U.S.C. § 1226(a)’s discretionary custody framework. Petitioner’s OREC contains no allegation of criminal history, dangerousness, or prior removal order beyond Petitioner’s entry without inspection.

Accordingly, Petitioner falls squarely within the category of noncitizens whose detention was addressed in the *Maldonado Bautista Final Judgment*. Although the *Maldonado Bautista* court has now vacated *Yajure Hurtado* under the APA, IJs and ICE officers, as a practical matter, continue to treat it as controlling guidance in the absence of new EOIR instructions, so detained noncitizens like Petitioner are still being denied bond solely because of their entry without inspection, making habeas the only effective remedy.

VI. EXHAUSTION OF REMEDIES

48. **No statutory exhaustion requirement applies to habeas cases**, and the recent interpretations by DHS and EOIR have effectively closed all administrative avenues for securing release for noncitizens, like Petitioner, who entered the U.S. without inspection. ICE's internal policy from July 2025, coupled with the EOIR's Board of Immigration Appeals (BIA) precedent, mandates that immigration judges deny bond to the Petitioner and similarly situated noncitizens, rendering any further administrative steps futile.
49. An administrative remedy may be inadequate where the administrative body is shown to be biased or has otherwise predetermined the issue before it as noted in *Gibson v. Berryhill*, 411 U. S. 564, 575, n. 14 (1973). Requiring Petitioner to seek reconsideration with ICE or a bond hearing with an IJ "would be to demand a futile act" as no relief would be granted while Petitioner languishes in detention, as highlighted in *Houghton v. Shafer*, 392 U.S. 639, 640 (1968).

50. Furthermore, even if applied, the doctrine of exhaustion of administrative remedies would have been futile on claim attacking constitutionality of ICE's actions and ICE's and EOIR's current interpretations of the mandatory detention provisions. Administrative hearings cannot address the constitutional claims at issue, rendering further proceedings ineffective. Moreover, where ICE seeks to quickly remove noncitizens like Petitioner even to third countries, without due process, particularly under the current administration's policies, underscores the inadequacy of administrative remedies. *McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992) (futility exception to exhaustion applies where administrative remedies are inadequate or unavailable); *Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006) (due process challenges generally do not require exhaustion where the BIA cannot review constitutional claims). . Thus, pursuing such remedies would be an exercise in futility, as they fail to provide any meaningful opportunity to address the constitutional violations at hand.
51. Petitioner has exhausted her administrative remedies to the extent required by law, and Petitioner's only remedy is by way of this judicial action.

VII. LEGAL FRAMEWORK FOR THE RELIEF SOUGHT

A. Habeas Jurisdiction

52. This Court has fundamental authority and a constitutional duty under 28 U.S.C. § 2241 to remedy Petitioner's unlawful detention. The Supreme Court has consistently affirmed that the Great Writ is the primary instrument for challenging the legality of

civil immigration detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *I.N.S. v. St. Cyr*, 533 U.S. 289, 314 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018). As “perhaps the most important writ known to the constitutional law,” habeas corpus is an equitable tool that empowers this Court not just to review custody, but to “dispose of the matter as law and justice require” under 28 U.S.C. § 2243. *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Schlup v. Delo*, 513 U.S. 298, 319 (1995). That power explicitly includes ordering a petitioner’s immediate release. *Boumediene v. Bush*, 553 U.S. 723, 787 (2008). This Court’s jurisdiction is secure, as the concept of “custody” is broad, attaching at the time of filing and persisting despite subsequent release due to the significant ongoing restraints on Petitioner’s liberty. *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973).

B. The Administrative Procedure Act (APA)

53. Petitioner’s detention is predicated on two agency actions—ICE’s July 2025 “Interim Guidance” and the BIA’s decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—that are subject to this Court’s review. These policies represent the “consummation of the agency’s decisionmaking process” and are the direct cause of Petitioner’s unlawful confinement, qualifying them as reviewable “final agency action” under the APA. *See Bennett v. Spear*, 520 U.S. 154, 178 (1997); 5 U.S.C. § 704.

C. The Accardi Doctrine Requires Agencies to Follow Internal Rules

54. Respondents’ actions also violate the bedrock principle of administrative law that agencies are bound by their own rules. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). This doctrine is not limited to formal regulations but extends

to internal procedures and instructions that affect individual rights. See *Morton v. Ruiz*, 415 U.S. 199, 235 (1974); *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). By abandoning their long-standing regulations and practices that have historically afforded bond hearings for interior apprehensions, Respondents have acted unlawfully, and their actions must be set aside. See *U.S. v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969).

VIII. RESPONDENT'S UNLAWFUL INTERPRETATION OF THE DETENTION STATUTES

A. This Court's Holding in *J.A.M. v. Streeval*: Interior Apprehensions Are Governed by § 1226(a)

55. This Court has already rejected the government's attempt to subject long-term residents apprehended in the interior to the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). In *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), a case with nearly identical facts, this Court harmonized the INA's distinct detention schemes. It held that § 1225, which applies to aliens "seeking admission," does not cover individuals already present in the U.S., as "seeking admission" requires an active attempt to enter, not mere presence. *Id.* The court therefore concluded that noncitizens apprehended in the interior, like Petitioner, are properly detained under 8 U.S.C. § 1226(a) and are entitled to a bond hearing. As Petitioner's circumstances are legally indistinguishable from those in *J.A.M.*, the same statutory analysis compels the same conclusion. It held that "[t]he only way to reach the interpretation urged by Respondents is to ignore the statute's plain language, which the rules of statutory construction do not countenance.") and *id.* at *4 (Yajure

Hurtado “opinion also largely ignores § 1226 and fundamental canons of statutory interpretation that require consideration of the relevant context within which the statute exists.” See also *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025) (explaining that “[a]lthough the Petitioners in these cases have not been lawfully admitted and at various times took some action that would allow them to lawfully remain in the United States, these actions were taken outside the context of § 1225(b)(2)’s ‘seeking admission’ requirement. They did not involve a preliminary examination by an examining immigration officer upon initial entry to the United States, nor did they occur in close temporal proximity to their initial arrival. Accordingly, mandatory detention under § 1225(b)(2) is not authorized in these cases.”).

B. Recent Federal Court Cases Rejecting DHS’ and EOIR’s New Interpretation.

56. This Court’s holding in *J.A.M.* and *P.R.S.* aligns with a tidal wave of recent decisions from hundreds of district courts that have repudiated the government’s novel reinterpretation of the INA (*See* Exhibit 2). These courts consistently find that applying the “arriving alien” framework of § 1225 to interior apprehensions defies the statute’s plain language.¹ As one court memorably explained, a person who sneaks into a movie

¹ *Savane v. Francis*, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025) (Petitioner arrested pursuant to 1225 which was improper; habeas petition granted and immediate release ordered within one business day); *Artiga v. Genalo*, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025) (Petitioner unlawfully detained pursuant to 1225, government ordered to transport Petitioner back to EDNY within 24 hours and immediately upon effectuating his transfer, to release him from custody); *Cuevas Guzman v. Andrews*, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025), (petitioner entered without inspection more than 30 years ago, detained pursuant to 1225, court found 1226(a) applied based on statutory language; PI granted and court ordered release); *Echevarria v. Bondi*, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025), entered without inspection in 2001, arrested in 2025 under 1225(b); the 24 year period petitioner resided in the U.S. made the plain language of 1225(b) was inapplicable to him, at the time of arrest an immigration officer was not “examining” him and he

theater is described as being “already present there,” not as “seeking admission.” *Lopez Benitez v. Francis*, 795 F.Supp.3d 475, 489, 2025 WL 2371588, at *7 (S.D. NY August 13, 2025). The government’s position would also render § 1226(a) – the statute governing discretionary bond for interior arrests – a near nullity, a result Congress could not have intended. *Id.* at *8. As another district court explained in *Balde v. Lowe, et al.*, “[t]hese definitions create dual tracks: if an individual is detained attempting to enter the country illegally or while otherwise presenting themselves for inspection and entry, they are subject to mandatory detention pursuant to § 1225. If they are arrested after having already entered the country, they are subject to detention under § 1226 and are entitled to a bond hearing. *Balde*, No. 4:26-CV-00430, 2026 WL 767458, at *2 (M.D. Pa. Mar. 18, 2026) (“Section 1225(b)(2)(A) applies only to an alien who is both an ‘applicant for admission’ and ‘seeking admission.’”). Here, Petitioner is not “seeking admission,”

was not “seeking” admission; Based on *Jennings and Nielsen*, statutory scheme of 1226(a) applies); *Maldonado Vazquez v. Feeley*, 2025 WL 2676082 (D. Nev. Sept. 17, 2025) (entered without inspection over 20 years ago; detained July 2025; court help petitioner held pursuant to 1226(a) not as the government contends 1225(b)(2); Yajure Hurtado renders requiring prudential exhaustion futile; PI granted and release ordered on IJ bond); *Rodriguez Vazquez v. Bostock*, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (court granted summary judgement on behalf of a class of people without lawful status held in Tacoma who entered without inspection and not apprehended upon arrival, court held plain text of 1226(a) applies rather than 1225(b) and issues a detailed statutory analysis); *Guzman Alfaro v. Wamsley*, 2025 WL 2822113 (W.D. Wash. Oct. 2, 2025) (court granted similar relief as a class member of *Rodriguez Vasquez*; *Garcia Cortes v. Noem*, 2025 WL 2652880 (D. Colo. Sept. 16, 2025) (Court held 1226(a) and not 1225(b)(2) authorizes detention; procedural due process violated under *Mathews*, habeas granted); *Lopez-Campos v. Raycroft*, No. 2:25-cv-12486, 2025 WL 2496379, at *5-6 (E.D. Mich. Aug. 29, 2025) (granting petition for writ of habeas corpus ordering immediate release or bond hearing, where, for 30 years, courts have applied section 1226(a) to noncitizens like the petitioner who was already in the United States but facing removal, rejecting the government’s argument that section 1225 applied so no bond hearing was required.); *Aguilar-Leon v. Arnott et. al.*, No. 6:26-CV-3137-MDH, 2026 WL 767468, at *3 (W.D. Mo. Mar. 18, 2026) (Respondents’ interpretation does not follow that plain language); *U.S. Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *2, *6 (D. Mass. July 24, 2025) (explaining that one who is “seeking admission” is presently attempting to gain admission into the United States); *Hernandez-Cuevas v. Olson*, No. 4:25-cv-00830-BP, at 3 (W.D. Mo. Nov. 05, 2025) (Noncitizens who are present in the country for years, are not actively ‘seeking admission.’) citing *Barrera v. Tindall*, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025) (quotations omitted).

he is already present in the U.S. and as such, he is not subject to 8 U.S.C. § 1225(b). *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025) (“‘[S]eeking admission’ ... implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection.”). While these cases confirm the illegality of Petitioner’s detention, habeas relief is individualized, necessitating this petition to vindicate Petitioner’s rights.

IX. RESPONDENT’S REVOCATION OF RELEASE AND RE-DETENTION

57. Petitioner’s detention is not the result of an initial custody determination, but an unlawful re-arrest executed in violation of mandatory federal regulations, her constitutional right to due process, and the agency’s own prior binding finding that she was eligible for discretionary release. As such, her detention was unlawful ab initio and must be remedied by immediate release.
58. Following her apprehension near the border after entry, Petitioner was presumably issued a written OREC and released from DHS custody into the community. That order imposed conditions of supervision, including regular reporting to ICE, with which Petitioner fully complied for several years before his sudden re-arrest at her March 2026 ICE check-in.
59. An Order of Release on Recognizance (OREC) is the mechanism by which DHS effectuates discretionary release under INA § 236(a), 8 U.S.C. § 1226(a), and its implementing regulation, 8 C.F.R. § 236.1, not immigration parole under 8 U.S.C. § 1182(d)(5)(A). Federal courts and the Board of Immigration Appeals have repeatedly

recognized that a noncitizen released on a Form I-220A is detained and released under § 1226(a), and therefore cannot simultaneously be treated as subject to mandatory detention under § 1225(b) as an “arriving alien.” *See, e.g., Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115–16 (9th Cir. 2007); *Cruz-Miguel v. Holder*, 650 F.3d 189, 191 (2d Cir. 2011); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 483–85 (S.D.N.Y. 2025); *Martinez v. Hyde*, 792 F. Supp. 3d 211, 215 (D. Mass. 2025); *Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 749 (BIA 2023).

A. Respondents Violated Mandatory Regulations Regarding Revocation of Release.

60. The authority to revoke an OREC is strictly limited by regulation to a narrow group of high-level officials. 8 C.F.R. § 236.1(c)(9) provides: “When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign), in which event the alien may be taken into physical custody and detained.” This authority is exclusive, and DHS Delegation Order 7030.2 expressly prohibits its redelegation. Any revocation by an unauthorized official is therefore *ultra vires* and invalid.
61. Furthermore, the regulatory framework for changing a noncitizen’s custody status is explicit and mandatory. To revoke an OREC, DHS must: (1) issue a new custody determination, typically via Form I-286; (2) provide contemporaneous written notice to the noncitizen; and (3) advise the individual of the right to seek prompt review by an Immigration Judge. *See* 8 C.F.R. § 236.1(d)(1)–(3). These are not mere formalities but

substantive safeguards to ensure any deprivation of liberty is based on individualized information and subject to fair adjudication.

62. Here, none of these mandatory procedures were followed. Petitioner was summarily arrested without being provided a new custody determination, written notice, a statement of reasons, or identification of the official who ordered the revocation. Failure to comply with these procedures renders the revocation invalid. *See, e.g., Santamaria Orellana v. Baker*, No. 1:25-cv-02841 (D. Md. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765, at 10 (E.D.N.Y. Sept. 29, 2025).

B. The Revocation Violated Petitioner's Fifth Amendment Right to Due Process

63. Because Petitioner had been released on an OREC, she acquired a protected liberty interest in her continued freedom. The summary revocation of that liberty without any process whatsoever violates the Fifth Amendment's Due Process Clause. The governing standard for procedural due process is the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), which weighs the private interest, the risk of erroneous deprivation, and the government's interest. Every factor weighs decisively in Petitioner's favor.
64. First, Petitioner's private liberty interest is paramount. She has lived in the United States for years on supervised release, fully complied with all conditions, and built deep family and community ties. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The abrupt, unexplained deprivation of this liberty constitutes a profound intrusion.

65. Applying the *Mathews* framework in this precise posture, other courts have consistently held that noncitizens who have been living in the community on bond or parole are entitled to a pre-deprivation hearing before an immigration judge prior to re-detention. In *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019), the court granted habeas and permanently enjoined ICE from re-arresting the petitioner “unless and until a hearing, with adequate notice, is held in Immigration Court” to decide whether bond revocation was justified. In *Vargas v. Jennings*, the court issued injunctive relief after concluding that the petitioner had raised serious questions on the merits of her claim “that he has a protectable liberty interest in his conditional release under *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) and that he must be afforded a pre-deprivation hearing if respondents seek to re-arrest him.” Likewise, in *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050 (N.D. Cal. 2021), and *Romero v. Kaiser*, 2022 WL 1443250 (N.D. Cal. May 6, 2022), the courts held that due process, as articulated in *Morrissey* and *Mathews*, requires a pre-detention hearing before an IJ when DHS seeks to revoke bond and re-detain a previously released noncitizen. More recent decisions—including *Rodriguez Diaz v. Kaiser*, 2025 WL 3011852 (N.D. Cal. Sept. 16, 2025), *Aguilar Garcia v. Kaiser*, No. 3:25-cv-05070 (N.D. Cal. June 14, 2025), and the Eastern District of California’s orders in *D.L.C. v. Wofford* and *Pineda v. Chestnut*—have reaffirmed that re-detention without such a pre-deprivation bond or custody hearing violates due process where the noncitizen has a substantial conditional liberty interest and has complied with supervision. More recent cases such as *Perera v. Jennings*, 598 F. Supp. 3d 736 (N.D. Cal. 2022), and *Pham v. Becerra*, 717 F. Supp. 3d 877 (N.D. Cal. 2024), which

likewise apply *Morrissey* and *Mathews* to hold that long-released noncitizens are entitled to pre-deprivation IJ hearings before re-detention.

66. The government cannot diminish this liberty interest by mischaracterizing Petitioner as an arriving alien at the ‘threshold of initial entry.’ Unlike the noncitizen in *Department of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), who was apprehended moments after crossing the border, Petitioner was released into the United States and lived here for a while under supervision. Once released, Petitioner acquired a significant, constitutionally protected liberty interest in enjoying continued freedom. Petitioner’s situation is therefore governed by the Supreme Court’s decision in *Morrissey*, 408 U.S. at 482, which recognized that the revocation of conditional liberty inflicts a ‘grievous loss’ that triggers robust due process protections. The government’s decision to release Petitioner created an ‘implicit promise’ that his liberty would ‘be revoked only if [he] fail[ed] to live up to the... conditions [of release].’ *Pinchi v. Noem*, 792 F. Supp. 3d 1025 (N.D. Cal. 2025) (quoting *Morrissey*, 408 U.S. at 482). The government cannot now ignore the liberty interest it created. *See also Chavarria v. Chestnut*, No. 25-cv-01755-DADAC, 2025 WL 3533606, at *3 (E.D. Cal. Dec. 9, 2025).

67. Second, the risk of erroneous deprivation from the procedures used – which were no procedures at all – is exceptionally high. Detaining a compliant individual without advance notice, an individualized assessment, or an opportunity to be heard creates a near-certainty of error. The procedural safeguards required by regulation and affirmed by federal courts – notice, a hearing, and a decision by an authorized official – are the “substitute procedural safeguards” that would eliminate this risk. Their complete

absence here makes the due process violation manifest. *See, e.g., J.U. v. Maldonado*, 2025 WL 2772765, at 10 (holding that “ongoing detention of Petitioner with no process at all... violates his due process rights”); *Pinchi v. Noem*, No. 5:25-cv-05632-PCP, 2025 WL 2084921, at 5 (N.D. Cal. July 24, 2025); *Kelly v. Almodovar*, No. 25 Civ. 6448, 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025).

68. Third, the government’s interest does not justify this lawless conduct. While the government has an interest in detaining noncitizens who pose a flight risk or danger, that interest is nonexistent here, as evidenced by Respondents’ own years-long determination that Petitioner was suitable for release on supervision. The administrative burden of providing notice and a hearing is minimal compared to the severe harm of arbitrary detention. The government’s failure to provide these basic procedural protections before re-detaining Petitioner renders her re-detention unconstitutional under the Due Process Clause and mandates her immediate release.

C. Respondents Are Estopped From Re-Characterizing Petitioner’s Detention Status

69. By releasing Petitioner on an OREC, DHS made a binding determination that her custody was governed by 8 U.S.C. § 1226(a), the statute authorizing discretionary release. Both federal courts and the Board of Immigration Appeals have repeatedly recognized that an OREC constitutes a release under § 1226(a) pending removal proceedings—not parole under 8 U.S.C. § 1182(d)(5)(A). *See, e.g., Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115-16 (9th Cir. 2007) (holding that a noncitizen released on an “Order of Release on Recognizance” necessarily must have been detained and released under § 1226, including because he was not an “arriving alien” under the

regulations governing § 1225 examinations); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 485 (S.D.N.Y. 2025) (Release on one's own recognizance is done pursuant to § 1226; it is a form of "conditional parole" from detention, authorized under § 1226); *Martinez v. Hyde*, 792 F. Supp. 3d 211, 215 (D. Mass. 2025) (explaining that petitioner's release on her own recognizance "does not indicate that she was examined or detained under section 1225 but instead explicitly premises her release on section 1226 ('[i]n accordance with section 236 of the Immigration and Nationality Act.'");² *Cruz-Miguel v. Holder*, 650 F.3d 189, 191 (2d Cir. 2011); *Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 749 (BIA 2023) (This binding precedent on Respondents held that release on one's own recognizance is a release under INA 236(a)(2)(B), 8 U.S.C. § 1226(a)(2)(B), therefore § 1225(b) could not possibly apply to Petitioner's case.

70. Here, DHS's consistent treatment of Petitioner as subject to detention on a discretionary basis under § 1226(a), "is fatal to Respondents' claim that he is now subject to mandatory detention under § 1225(b))." *Lopez Benitez*, 795 F. Supp. 3d at 483–

² As the district court in *Martinez v. Hyde*, explained, individuals detained following examination under section 1225 can only be paroled into the United States "for urgent humanitarian reasons or significant public benefit". 792 F. Supp. 3d at 215, (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A) ("section 1182(d)(5)(A)")). Tellingly, release on recognizance is not "humanitarian" or "public benefit" "parole into the United States" under section 1182(d)(5)(A) but rather a form of "conditional parole" from detention upon a charge of removability, authorized under § 1226. *Id.* This distinction reflects more than an officer's choice of paperwork because, although both styled as "parole," these two mechanisms serve fundamentally different purposes. *Id.* Parole "into the United States," under section 1182(d)(5)(A), permits a non-citizen to physically enter the country, subject to a reservation of rights by the Government that it may continue to treat the non-citizen "as if stopped at the border." See *DHS v. Thuraissigiam*, 591 U.S. 103, 139 (2020) (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)). Section 1226 governs a separate (nonmandatory) detention scheme applicable when an individual is "already in the country" and Conditional parole, under section 1226(a)(2)(B), instead releases a non-citizen already in the country from domestic detention. *Martinez*, 792 F. Supp. 3d at 215, citing *Jennings*, 583 U.S. at 289.

84. Respondents' own evidence clearly demonstrates their determination throughout Petitioner's entire immigration journey that he is—and always has been—subject to only 8 U.S.C. § 1226. Thus, in determining that Petitioner was eligible for release under § 1226 and issuing her an OREC, the government necessarily included the legal findings that she was not subject to mandatory detention under § 1225, and that she was not a danger or a flight risk.

71. Respondents are now barred by the doctrine of collateral estoppel from re-litigating that issue and claiming Petitioner is subject to mandatory detention under a different statute, 8 U.S.C. § 1225(b). This eleventh-hour attempt to retroactively apply § 1225(b) is an impermissible post hoc rationalization that the Court must reject. *Cf. DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 22 (2020) (holding an agency must defend its actions based on the reasons it gave when it acted, not on subsequent justifications). By releasing Petitioner on an Order of Release on Recognizance (OREC) explicitly under the authority of 8 U.S.C. § 1226(a), the government made a binding legal determination that it cannot now abandon simply because it has changed its litigation posture.

72. Collateral estoppel, or issue preclusion, prevents a party from re-arguing an issue of fact or law that was already decided against that party in a prior proceeding if four elements are met: (1) the issue is identical to one decided in a prior proceeding; (2) the issue was actually litigated and determined; (3) the determination was a critical and necessary part of the prior decision; and (4) the party against whom estoppel is

asserted had a full and fair opportunity to litigate the issue. All four elements are satisfied here.

73. First, the issue is identical. The question then, as now, is whether Petitioner's custody is governed by the discretionary release framework of 8 U.S.C. § 1226(a) or the mandatory detention framework of 8 U.S.C. § 1225(b).
74. Second, the issue was actually determined by DHS. The government's own evidence will confirm that it issued Petitioner an Order of Release on Recognizance (OREC). That OREC explicitly premised the release on "section 236 of the Immigration and Nationality Act"—8 U.S.C. § 1226. This was a formal agency adjudication of Petitioner's custody status, not a procedural oversight. The government considered the applicable law, made a definitive choice, and issued a formal order based on that determination.
75. Third, the determination was critical and necessary to the release. A decision to release a noncitizen on their own recognizance is a discretionary act authorized only under § 1226(a). Conversely, § 1225(b) mandates detention. Therefore, the legal finding that § 1226(a) was the governing statute was a prerequisite for the OREC to be lawfully issued. Without that determination, Petitioner's release would have been contrary to law.
76. Fourth, the party against whom estoppel is asserted—the government—is the same party that made the original determination. DHS had a full and fair opportunity to assess the facts and law when it chose to proceed under § 1226(a). It is now bound by that decision.

77. Here, the government previously and explicitly determined that Petitioner was eligible for release under § 1226 when it granted him an OREC. That decision necessarily included the legal finding that he was not subject to mandatory detention under § 1225. Petitioner relied on that determination for years, complying with all conditions of her release. To allow Respondents to now reverse their position and invoke a different, more punitive statutory provision would be fundamentally unfair and would undermine the finality of the agency's own decisions. Having made its choice to proceed under § 1226, the government is estopped from now claiming that statute never applied and that Petitioner was, in fact, subject to mandatory detention all along.
78. This estoppel principle is reinforced by longstanding retroactivity doctrine. In *INS v. St. Cyr*, 533 U.S. 289 (2001), the Supreme Court held that the Executive may not retroactively attach new, more onerous immigration consequences to past conduct where a noncitizen reasonably relied on the prior legal framework. The Eleventh Circuit has applied similar reasoning in *Rendon v. U.S. Att'y Gen.*, 972 F.3d 1252 (11th Cir. 2020), and *Sarmiento Cisneros v. U.S. Att'y Gen.*, 381 F.3d 1277 (11th Cir. 2004), making clear that when the government confers a particular statutory status and a noncitizen orders his or her affairs in reliance on that status, it cannot later re-cast the statutory scheme to impose harsher consequences. Here, DHS affirmatively chose to detain and release Petitioner under the § 1226(a)/OREC (or parole) framework, supervised her in the community for an extended period, and gave her every reason to rely on that treatment; it cannot now retroactively characterize her as a §

1225(b)(2)(A) “mandatory” detainee solely to avoid bond eligibility and judicial review.

X. CAUSES OF ACTION AND CLAIMS FOR RELIEF

COUNT ONE

Statutory Violations of the Immigration and Nationality Act, Agency Regulations And the *Accardi* Doctrine

79. Petitioner’s detention is the direct result of a cascade of unlawful agency actions that violate the plain text of the Immigration and Nationality Act (INA), contravene decades of binding agency regulations, and therefore constitute a flagrant violation of the *Accardi* doctrine. Respondents are unlawfully detaining Petitioner by misclassifying her as an “arriving alien” subject to mandatory detention under 8 U.S.C. § 1225(b) when the statutes and the agency’s own rules unambiguously require her case to be processed under 8 U.S.C. § 1226(a), which provides for discretionary release on bond.
80. First, Respondents’ actions defy the clear statutory scheme established by Congress. The INA creates two distinct detention frameworks: § 1225 governs the inspection and mandatory detention of aliens “arriving in the United States,” while § 1226(a) governs the discretionary detention of aliens arrested “in the United States” on a warrant. Petitioner, a long-term resident apprehended in the interior, falls squarely within the latter category. By applying the “arriving alien” framework to Petitioner, Respondents unlawfully erase this critical statutory distinction.

81. Second, Respondents' actions violate their own binding regulations and long-standing practice. For over two decades, agency regulations have implemented the statutory distinction by explicitly providing for bond eligibility for interior apprehensions. After Congress amended the INA in 1996, the agency issued an interim rule clarifying that noncitizens "present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination" under 8 U.S.C. § 1226. This policy is enshrined in regulations such as 8 C.F.R. §§ 236.1 and 1236.1. The new policy articulated in the July 2025 ICE memorandum and the *Yajure Hurtado* decision represents a radical and unlawful departure from these established rules.
82. Respondents' attempt to justify Petitioner's current custody solely under 8 U.S.C. § 1225(b)(2)(A), notwithstanding their prior decision to detain and release him under 8 U.S.C. § 1226(a), is precisely the sort of statutory misclassification and retroactive relabeling that courts have rejected. Under the plain text of the INA, the government's detention authority over noncitizens in removal proceedings is governed either by § 1225 (for certain applicants "seeking admission") or by § 1226 (for those arrested and detained in the interior), and that choice of statute carries concrete legal consequences for custody and bond eligibility. In *Labrada Hechavarria*, 2026 WL 496486 (11th Cir. Feb. 23, 2026), the Eleventh Circuit held that this statutory question – whether detention is under § 1225 or § 1226 – is itself judicially reviewable, and it refused to accept DHS's post-hoc effort to re-cast long-time § 1226(a) releasees as § 1225 detainees simply to impose mandatory, no-bond detention.

83. Because DHS initially exercised its § 1226(a) authority to arrest and then release Petitioner on an OREC or parole, and supervised him in the community for an extended period, it cannot now retroactively reclassify him as detained under § 1225(b)(2)(A) without violating the INA and the basic requirement that agencies adhere to the statutory framework they themselves invoked.
84. Finally, by defying their own statutes and regulations, Respondents have violated the *Accardi* doctrine, a bedrock principle of administrative law that commands that federal agencies are bound by their own rules. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The *Accardi* doctrine applies with full force not only to formal regulations but also to internal policies and guidance that confer “important procedural benefits upon individuals,” such as the right to a bond hearing. *Am. Farm Lines v. Black Ball Freight Serv.*, 397 U.S. 521, 538 (1970); *see also Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991).
85. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service (now DHS) issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [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.**” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection

were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

86. This is not a mere procedural error; it is a fundamental breach of the rule of law. Respondents cannot simply ignore decades of their binding procedures to achieve a policy goal of mass mandatory detention. Because Respondents' actions were taken in direct contravention of the INA and their own established rules, those actions are invalid, rendering Petitioner's resulting detention unlawful and requiring this Court to set it aside.

COUNT TWO

Unlawful Arrest and Seizure in Violation of the Fourth Amendment and the INA (8 U.S.C. §§ 1226(a), 1357(a)(2))

87. Petitioner's seizure and detention are unlawful ab initio because her arrest violated the clear statutory framework established by Congress and the Fourth Amendment's prohibition on unreasonable seizures. The primary authority for a civil immigration arrest in the interior of the United States requires that it be conducted "[o]n a warrant." 8 U.S.C. § 1226(a). The narrow exception for a warrantless arrest under 8 U.S.C. § 1357(a)(2) demands a showing that the individual is "likely to escape before a warrant can be obtained".
88. Respondents failed to meet either requirement. It was a factual impossibility for Petitioner to be "likely to escape" in that situation as described in the facts and procedural history above. The reasonableness of a seizure depends on the totality of the circumstances. Here, the seizure was of an individual who had already been

granted a form of supervised release by the government, who was fully compliant with all conditions of that release. Having failed to satisfy the statute's mandatory exigency requirement, Respondents' only lawful path to arrest Petitioner was to obtain a warrant under 8 U.S.C. § 1226(a), which they have failed to do. Such a seizure, devoid of individualized suspicion or exigent circumstances, is constitutionally unreasonable and renders Petitioner's resulting detention unlawful.

89. An arrest conducted without any statutory authority is an unreasonable seizure in violation of the Fourth Amendment. Because the initial seizure was void, the government's custody over Petitioner's person is the direct "fruit of the poisonous tree" and is incurably tainted. A subsequent bond hearing cannot remedy a detention that never had a lawful beginning. The only proper remedy for this fundamental statutory and constitutional violation is immediate and unconditional release.

COUNT THREE

Unlawful Re-Detention in Violation of the Fifth Amendment Due Process Clause and Agency Regulations

90. Petitioner's re-arrest and detention are also unlawful *ab initio* because Respondents summarily revoked her OREC in violation of her protected liberty interest under the Fifth Amendment's Due Process Clause and in direct defiance of their own mandatory regulations.
91. By releasing Petitioner on an OREC under 8 U.S.C. § 1226(a), Respondents granted Petitioner a protected liberty interest in her continued freedom from physical custody. The summary revocation of that liberty without any process whatsoever fails the three-

part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976). Petitioner's private liberty interest is paramount; the risk of erroneous deprivation from the procedures used – which were no procedures at all – is exceptionally high; and the government's interest is nonexistent, as its own years-long supervision of Petitioner demonstrated he was neither a flight risk nor a danger.

92. The re-detention is also ultra vires because it violated binding federal regulations. The authority to revoke an OREC is strictly limited by 8 C.F.R. § 236.1(c)(9) to a handful of designated officials and cannot be redelegated.
93. Furthermore, any change in custody status requires a new custody determination, written notice, and advice of the right to seek review by an Immigration Judge. 8 C.F.R. § 236.1(d)(1)–(3). Respondents followed none of these mandatory procedures. Petitioner was summarily arrested without notice, a statement of reasons, or identification of an authorized official who ordered the revocation. Failure to comply with these substantive safeguards renders the revocation invalid. *See J.U. v. Maldonado*, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025).
94. Finally, having made a binding determination to release Petitioner under the discretionary framework of 8 U.S.C. § 1226(a), Respondents are now estopped from reversing their position to claim she is subject to mandatory detention under 8 U.S.C. § 1225(b). Because the re-detention violated due process and was executed without regulatory authority, it is void, and Petitioner is entitled to immediate release. This estoppel is precisely the kind of unfairness that collateral estoppel and equitable-estoppel doctrines are designed to prevent, and it is incompatible with the Eleventh

Circuit's recognition in *Labrada Hechavarria* that courts must police such retroactive shifts between § 1226 and § 1225 to prevent the Executive from attaching new, harsher custody consequences to prior § 1226(a) release decisions. 2026 WL 496486 (11th Cir. Feb. 23, 2026).

COUNT FOUR

Violation of the Fifth Amendment of the U.S. Constitution Procedural and Substantive Due Process

95. Petitioner's detention is a profound offense to the Fifth Amendment, violating her rights to both substantive and procedural due process. It is axiomatic that the Due Process Clause applies to all persons within the United States, regardless of immigration status, and that "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Respondents' actions trample upon this fundamental right.
96. **Substantive Due Process:** The detention is substantively unconstitutional because it is arbitrary and serves no legitimate, non-punitive purpose. Civil immigration detention is permissible only to prevent flight or danger to the community. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 846 (2018). As established, Petitioner is neither a flight risk nor a danger. Petitioner's mandatory detention, without any individualized assessment, bears no reasonable relation to any legitimate government purpose and is therefore arbitrary deprivation of liberty, excessive, and unconstitutional.

97. **Procedural Due Process:** Even if a legitimate purpose for detention existed, the procedures used to effectuate it are constitutionally rotten. Due process demands a “meaningful opportunity to be heard at a meaningful time and in a meaningful manner” before a neutral decision-maker. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). The current scheme – whereby Respondents unilaterally subject Petitioner to mandatory detention based on an unlawful policy – entirely lacks these fundamental safeguards and fails the three-part balancing test set forth in *Mathews*:
98. **The Private Interest:** Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Being free from physical detention by one’s own government “is the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail determination, is “without question, a weighty one.” *Landon v. Plasencia*. Petitioner is being held in jail in the same conditions as criminal inmates, unable to work and is far from family. At minimum, the government must come forward with concrete, case-specific reasons that outweigh Petitioner’s substantial liberty interest in continued release.
99. **The risk of erroneous deprivation** of liberty is extreme. The system lacks any neutral adjudicator, as ICE is acting as both prosecutor and judge, a structural defect that creates a constitutionally intolerable risk of wrongful deprivation, as highlighted in *Marcello v. Bonds*, 349 U.S. 302, 305-306 (1955). Respondents are effectuating prolonged

detention based on their own self-serving interpretation of the law, with no check on their power. This risk is exacerbated by the coordinated actions of both DHS and EOIR, which operate under a unified approach that effectively denies bond to noncitizens in Petitioner's situation, thereby unilaterally depriving them of their liberty.

100. **The Government's Interest:** The government's interest in enforcing its detention policy is minimal, if not entirely illegitimate. There is no valid government interest in enforcing an interpretation of the law that is contrary to the plain text of the INA, that conflicts with its own regulations providing for bond hearings under 8 U.S.C. § 1226(a), and that is based on a policy (*Matter of Yajure Hurtado*) that has been judicially declared untenable. The government has no cognizable interest in violating the law or wasting taxpayer resources on the unnecessary detention of individuals who are neither dangerous nor flight risks.

101. All three *Mathews* factors weigh decisively in Petitioner's favor. The current scheme is fundamentally unfair, unconstitutional, and deprives Petitioner of liberty without the process that is, and has always been, due.

XI. REMEDY

THE ONLY CONSTITUTIONALLY SUFFICIENT REMEDY IS IMMEDIATE AND UNCONDITIONAL RELEASE

102. When a person's liberty is taken without any lawful authority, the only effective and constitutionally sufficient remedy is to restore that liberty immediately and unconditionally. A subsequent bond hearing cannot cure a detention that was void from its inception (*ab initio*). Federal courts possess broad equitable power under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering immediate release when the government's custody is illegal. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Here, law and justice demand nothing less than Petitioner's release, as Petitioner's detention is a legal nullity built upon a foundation of statutory and constitutional violations.
103. Petitioner's detention is unlawful at its core because the arrest itself was executed in open defiance of the Immigration and Nationality Act's clear commands. Whether viewed as an arrest under 8 U.S.C. § 1225 or 8 U.S.C. § 1226(a), the seizure was illegal. Respondents claim authority under § 1225, but that statute applies to arriving aliens at the border, not long-term interior residents like Petitioner. The correct statute for an interior apprehension, § 1226(a), unequivocally requires that an arrest be made "[o]n a warrant." Respondents had no such warrant.
104. A bond hearing is a wholly inadequate remedy for such a fundamental violation. The purpose of a bond hearing is to assess the propriety of continued detention

following a lawful arrest. It presupposes that the government's custody was, at some point, legitimate. That is not the case here. To order a bond hearing would be to retroactively sanitize an illegal seizure and give the government a "pass for not securing a warrant." *Javier De Jesus Aguilar v. English*, No. 3:25-CV-898 DRL-SJF, 2025 WL 3280219 (N.D. Ind., Nov. 25, 2025). As that court correctly reasoned when ordering immediate release under similar facts, "[t]he simple matter is this: the government has not established a lawful basis for detention... and the government must live by the rules that Congress has instituted." *Id.*

105. Granting a bond hearing would not only fail to cure the violation, it would compound the harm. It would force Petitioner to languish in unlawful custody for weeks longer while awaiting a hearing, spend additional money on a bond (if one is even granted, as bonds grants are diminishing even after habeas grants) all while Respondents have failed to produce a single shred of evidence that Petitioner is a flight risk or a danger to the community. This Court should not reward the government's disregard for the law by prolonging the very illegal detention it created. When the government's custody over a person is the "fruit of the poisonous tree" – the poisonous tree being the illegal arrest itself – the only just remedy is to sever the connection by ordering immediate and unconditional release.

106. Furthermore, should this Court nonetheless order a bond hearing as an alternative to immediate release, it is critical that the order contain specific procedural safeguards to make that remedy meaningful. There is a troubling trend of

immigration judges denying bond after a habeas grant based on rote assertions of flight risk or danger, often without the government presenting any actual evidence. To counteract this and ensure Petitioner is afforded a constitutionally adequate hearing so we do not have to return to this Court, this Court should follow the sound reasoning of another court in this District and place the burden of proof squarely on the government. In *J.G. v. Warden, Irwin Cty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga., 2020), the court, observing that “Circuit courts considering the standard of proof in the immigration bond context have also adopted the clear and convincing standard,” held that “the government must prove by clear and convincing evidence that an alien is a flight risk . . . to justify denial of bond.” Several courts of appeals have reached the same conclusion. In *Velasco Lopez v. Decker*, 978 F.3d 842, 855–57 (2d Cir. 2020), the Second Circuit held that, once detention under 8 U.S.C. § 1226(a) becomes unduly prolonged, due process requires a new bond hearing at which the government bears the burden to justify continued detention by clear and convincing evidence. In *Hernandez-Lara v. Lyons*, 10 F.4th 19, 31–33 (1st Cir. 2021), the First Circuit likewise held that in § 1226(a) bond hearings the government must prove dangerousness by clear and convincing evidence and flight risk by a preponderance of the evidence. And in *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020), the Third Circuit held that, once detention under 8 U.S.C. § 1226(c) has become unreasonable, the government bears the burden to justify continued detention by clear and convincing evidence. Most recently, in *D.Y.E.H. v. Warden, Irwin Det.*

Ctr., No. 7:25-CV-201 (WLS) (M.D. Ga. Apr. 6, 2026), this Court enforced a prior § 2241 judgment by ordering a new § 1226(a) bond hearing at which DHS must prove by clear and convincing evidence that the petitioner is a danger or flight risk, and must consider ability to pay and alternatives to detention. The Court determined that the regulations under 8 C.F.R. §§ 236.1(c)(8) and 1236.1, as incorporated through *Matter of Adeniji* and *Matter of Guerra* to place the burden on the noncitizen to “merit release on bond,” cannot control the constitutional analysis because § 1226(a) itself is silent on burden allocation and, under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts owe no deference to an agency’s interpretation when deciding whether its procedures satisfy due process. Exercising its independent judgment, the Court held that, notwithstanding those regulations, due process requires DHS to bear the burden at a § 1226(a) bond hearing and to justify continued detention by clear and convincing evidence. Therefore, to prevent a perfunctory and meaningless hearing that would only prolong Petitioner’s unlawful detention, any order for a bond hearing must explicitly direct that the government bears the burden of establishing by clear and convincing evidence that Petitioner’s detention is necessary.

107. Finally, to ensure the remedy of release is not rendered illusory, the Court must explicitly ENJOIN Respondents from immediately substituting physical custody with another form of unlawful restraint: electronic monitoring. There is a now-common agency practice of subjecting virtually every noncitizen released from

custody to GPS ankle monitoring—a blanket policy applied without the individualized assessment of flight risk required by due process. This reflects a de facto agency policy of imposing GPS monitoring, even after an immigration judge has made a finding that a bond is sufficient to mitigate flight risk. This practice allows the agency to unilaterally subvert a judicial release order by replacing one form of custody with another. To provide a truly meaningful remedy and prevent Petitioner from being forced to return to this Court to challenge these new custody-like restraints, the Court should exercise its broad equitable power under 28 U.S.C. § 2243 to “dispose of the matter as law and justice require.” Accordingly, Petitioner requests that the Court’s order specify that her release is unconditional and enjoin Respondents from imposing any conditions of supervision, such as electronic monitoring, unless they first demonstrate to this Court, with five days’ advance notice, that significantly changed circumstances and a new, particularized assessment of risk justify such a severe restraint on Petitioner’s liberty.

XII. CONCLUSION AND PRAYER FOR RELIEF

108. The continued detention of Petitioner violates due process rights. But for intervention by this Court, Petitioner has no means of release from ICE custody. Petitioner faces ongoing and irreparable harm as a result of unlawful detention, including deprivation of liberty and loss of employment. These injuries cannot be remedied by monetary damages and will continue absent immediate judicial intervention. The balance of equities and the public interest strongly favor expedited consideration and equitable relief, including immediate release or a prompt bond hearing. Without such relief, Petitioner will continue to suffer irreparable harm, and the constitutional and statutory violations at issue will persist.

WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the ongoing deprivation of liberty and irreparable harm:

- (1) **Grant the Petition for Writ of Habeas Corpus** and, pursuant to its authority under 28 U.S.C. § 2243, order Respondents to **immediately and unconditionally release** Petitioner from custody, because her detention is unlawful *ab initio* under both 8 U.S.C. § 1225 (misclassification as an “arriving alien”) and 8 U.S.C. § 1226(a) (failure to obtain the statutorily required warrant for an interior arrest), and rests solely on agency actions that are contrary to the INA, ultra vires, arbitrary and capricious, and

adopted and applied in violation of the Accardi doctrine, as set forth in the APA/Accardi claim.

- (2) **In the alternative**, should the Court decline to order immediate unconditional release, issue an order directing Respondents to provide Petitioner with a bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a) and its implementing regulations at 8 C.F.R. §§ 236.1 and 1236.1 within forty-eight (48) hours of the Court's order, and further specifying that at any such hearing: (a) the **government bears the burden** of proving that Petitioner is either a flight risk or a danger to the community; and (b) the government must satisfy that burden by **clear and convincing evidence**, consistent with *J.G. v. Warden, Irwin Cty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020), which followed circuit precedent adopting this standard in the immigration bond context (including *Singh* and *Lopez*), in order to prevent the recurring problem of perfunctory bond denials based on unsupported assertions of risk rather than actual evidence;
- (3) **Enjoining Respondents**, upon Petitioner's release, from subjecting Petitioner to any form of electronic monitoring, GPS ankle bracelet, ISAP enrollment, or other alternative-to-detention program that functions as a custody-like restraint, absent prior leave of this Court. Respondents shall be prohibited from imposing such conditions unless, at least five (5) days in advance, they file notice with this Court and demonstrate—based on a new, particularized assessment of significantly changed circumstances and a concrete, evidence-based showing of flight risk or danger—that such conditions are necessary, and the Court expressly authorizes them

pursuant to its authority under 28 U.S.C. § 2243 to dispose of the matter as law and justice require.

- (4) **Issue an Order to Show Cause** directing Respondents to file a return within three (3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;
- (5) **ENJOIN** Respondents from re-detaining Petitioner in the future under 8 U.S.C. § 1225 or the DHS policy vacated by the *Maldonado Bautista* court;
- (6) **Award** Petitioner reasonable attorney's fees and costs; and
- (7) **Grant** such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 23rd day of April, 2026.

/s/ Karen Weinstock

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and immigration counsel have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 U.S.C. § 2242.

This 23rd day of April, 2026.

/s/ Karen Weinstock

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