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CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
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**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT COURT OF ARIZONA**

U.S. Courthouse, suite 130
401 West Washington Street, SPC10
Phoenix, Arizona 85003-2119

LORENA DEL CARMEN ASCENCIO-LOPEZ

A# 

Petitioner,

CV26-02764-PHX-MTL--ASB

V.

Pam Bondi,
US ATTORNEY GENERAL;
Kristi Noem,
SECRETARY OF DEPARTMENT OF
HOMELAND SECURITY;
John E. Cantu,
FIELD OFFICE DIRECTOR FOR THE
PHOENIX FIELD OFFICE;
Warden Eloy detention center
Respondents,

**PETITION FOR A WRIT OF
HABEAS CORPUS UNDER
28 U.S.C. 2241**

INTRODUCTION

1. This case is about Petitioner Lorena Del Carmen Ascencio-Lopez ("Petitioner" or "Lorena"), a 34-year-old Salvadorian woman who has been residing freely and absent any criminal record in the United States for more than five years. She fled El Salvador for political reasons and entered the United States without inspection in 2021. No longer living in Hyattsville, MD, her home for the past 5 years, she now sits incarcerated at Eloy detention Center, Eloy, AZ.

2. On March 1, 2025, without notice or warning, Lorena was seized by federal authorities, arrested, and detained.

3. She was transported to Eloy detention Center on March 10, 2025, and denied an immigration bond on September 24, 2026. She doesn't have an immigration hearing pending since the Immigration judge denied petitioner asylum application. Petitioner appealed the decision of the Immigration judge on October 10, 2025. Absent this court's intervention, Lorena will, at a minimum, remain incarcerated until the BIA review the appeal (and likely thereafter, during the pendency of any appeals she or Respondents may take)—despite the fact that she is neither a flight risk, nor a danger to the community.

4. Lorena's life dramatically changed on March 1, 2025, when she was incarcerated pursuant to the mandatory detention provision of this country's expedited removal law: Section 1225(b)(2)(A) of Chapter 8 of the United States Code ("Section 1225(b)").

5. But Lorena was not (and is still not) in expedited removal proceedings—rendering, on the plain meaning of the statute, her mandatory detention pursuant to Section 1225(b) unlawful. (bond denial determination by immigration judge on jurisdictional grounds, specifically referencing Section 1225(b), which requires mandatory detention and bars a bond determination). Because Lorena is not in expedited removal proceedings, she is not subject to mandatory detention. Instead, as her September 20, 2025, hearing date demonstrates, she is a noncitizen eligible

for bond under Section 1226(a) of Chapter 8 of the United States Code (“Section 1226(a)”).

6. A number of recent lower federal district court decisions have reached the conclusion that the mandatory detention provision of the expedited removal law, Section 1225(b), cannot be applied to noncitizens in 1226(a) proceedings, like Lorena. *See Rodriguez Vazquez v. Bostock*, ---F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on conclusion that Section 1225 cannot be applied on similar facts); *Benitez v. Francis*, 29-CV-5937, Oral Tr. at 39:2-15 (S.D.N.Y. July 28, 2025) (same); *Chipantiza-Sisalema*, 2025 WL 1927931, at *1 (S.D.N.Y. July 13, 2025), (granting release pursuant to courthouse arrest resembling petitioners).

7. Because Lorena was summarily denied bond under an inapplicable provision of the law to her case, she seeks habeas corpus release from this court.

8. Lorena’s arrest followed a May 22, 2025, unpublished decision from the Board of Immigration Appeals (“BIA” or the “Board”), a court that by statute follows the directives of the Attorney General of the United States and is prevented from addressing constitutional challenges to arguments raised to the Board’s attention. *See Varela-Chavarria v. Garland*, 86 F. 4th 443, 449 (1st Cir. 2023) (standing for the proposition that the BIA cannot hear constitutional issues). The Board held in its May 22 decision that the noncitizen—there, a citizen of Guatemala who entered without inspection roughly a decade prior—was considered an

applicant for admission under Section 1225(b) and, accordingly, deemed ineligible for an immigration bond. Declaration in Support of Plaintiffs, *Rodriguez Vazquez v. Bostock*, 3:25-cv-05240-TMC (July 8, 2025).

9. Lorena’s arrest pre-dated but, upon information and belief, was one of the unofficial iterations of a formal executive branch policy issued on July 8, 2025—wherein ICE “in coordination with” the Department of Justice (“DOJ”) officially announced that they were rejecting decades of precedent and practice concerning the expedited removal mandatory detention statute. ICE and DOJ explained in their guidance that they would now apply the mandatory detention provision to all those who EWI, not simply those subject to expedited removal—in the absence of any due process regarding this newfound application, and regardless of when an EWI entered the United States or whether they had a pending asylum application.

10. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”³ claims that all EWIs shall now be deemed “applicants for admission” under Section 1225—the expedited removal statute—and therefore subject to mandatory detention under Section 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, or whether they have a pending asylum application, and affects those who have resided in the United States for months, years -like Lorena.

11. This new policy was issued against the dictates of binding judicial precedent, including *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018), wherein the United States Supreme Court explained that Section 1225’s mandatory detention

scheme applies not in cases like Vicenta's (in short to those who EWI), but instead "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

12. Against this backdrop, Lorena ---who entered the United States without inspection years ago and has a pending application and no criminal record---was detained on March 1, 2025, without any consideration of her flight risk or dangerousness. She was never afforded any notice or opportunity to be heard as to whether she should be detained by Respondents in light of (1) her absence of any criminal record (in sum, her lack of any perceived dangerousness); (2) that fact that she was obviously not a flight risk ; and (3) immigration relief available to her, which would render her removal anything but imminent. In light of these facts, the strict purposes for immigration detention do not apply to Lorena, calling into question Respondents ability to detain her. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (describing the limited purposes of immigration detention, which include preventing flight and danger to the community).

13. Without this Court's intervention, Lorena will have no avenue to challenge her physical detention by Respondent. For the avoidance of any doubt concerning this Court's jurisdiction, through this petition, Lorena seeks only to challenge Respondents' ability to detain her pursuant to the Immigration and Nationality Act and the due process protections of the Fifth Amendment of the United States Constitution. *See Order Granting Mot. Temp. Restraining Ord.*,

Pourhosseinhendabad v. Trump et al., No. 1:25-cv-00987 (Jul. 17, 2025) (granting temporary restraining order in habeas challenge, later recalled and dissolved upon petitioners' release). Respondents may, of course, continue her removal proceedings as they see fit without any interference from this Court pursuant to this petition. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 118 (2020) (noting that the writ of habeas corpus invalidates government custody and ensures release, but does not disturb immigration court processes themselves).

14. Lorena submits this petition for a writ of habeas corpus ("Petition") pursuant to 28 U.S.C. § 2241, the All-Writs Act, 28 U.S.C. § 1651, Article I, Section 9 of the United States Constitution and the Fifth Amendments of the United States Constitution, to remedy her unlawful detention.

JURISDICTION

15. This action arises under the constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. 1101 et seq. as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. 701 et seq.

16. This court has jurisdiction under 28 U.S.C. 2241: art. 19, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, law, or treaties of the United State. This

court may grant relief pursuant to 28 U.S.C. 2241, 5 U.S.C. 702, and the All Writs Act, 28 U.S.C. 1651.

17. Petitioner has exhausted any and all administrative remedies to the extend require by law.

VENUE

18. Pursuant to Braden V. 30th Judicial Circuit Ct., 410 u.s. 484, 495-96, 93 S. Ct. 1123, 35 L. Ed. 2d 443 (1973); Roman V. Ashcroft, 340 F.3d 314, 318-20 (6th Cir. 2003). Thus, because the petition indicates that Petitioner is currently incarcerated at Eloy Detention Center, the proper venue for this action is the United States District Court for the District of Arizona, the judicial district in which Petitioner resides.

PARTIES

19. Petitioner is a native and citizen of El Salvador. Petitioner was taken into ICE custody on March 1, 2025 and has remained in ICE custody continuously since that date.

20. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, Mrs. Bondi has ultimate custodial authority over Petitioner.

20. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, **Mrs. Noem** is the legal custodian of Petitioner.

21. Respondent **Bret Bradford** is one of the ICE Field Director of the Texas Field Office of ICE and is Petitioner's immediate custodian who has signed Petitioner's continued Detention Letters. **See Vasquez v. Reno 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).**

22. Respondent Warden of Houston Contract Detention Facility (Cdf), where Petitioner is currently detained under the authority of ICE, alternatively, may be considered to be Petitioner's immediate custodian.

EXHAUSTION OF REMEDIES

23. No statutory exhaustion requirement applies to a petition challenging immigration detention under 28 U.S.C. § 2241. *See, e.g., Montano v. Texas*, 867 F.3d 540, 542 (5th Cir. 2017) (“Unlike 28 U.S.C. § 2254, Section 2241’s text does not require exhaustion.”); *Robinson v. Wade*, 686 F.2d 298, 303 n.8 (5th Cir. 1982) (“[S]ection 2241 contains no statutory requirement of exhaustion like that found in section 2254(b) . . .”).

24. Lorena’s claims—that her detention is unconstitutional because it contravenes the protections of the Fifth Amendments—are unrelated to any legitimate governmental purpose and therefore are not subject to any statutory

requirement of administrative exhaustion, and thus, exhaustion is not a jurisdictional prerequisite. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992).

25. To the extent that any prudential considerations might lead the Court to consider requiring exhaustion as a matter of discretion, the Supreme Court has recognized that courts should not require exhaustion where there is an “unreasonable or indefinite timeframe for administrative action.” *Id.* at 147. Exhaustion is thus not appropriate where the petitioner “may suffer irreparable harm if unable to secure immediate judicial consideration of [her] claim.” *Id.* Because Lorena is in detention, wherein each moment of her unconstitutional incarceration implicates irreparable harm, only this Court can consider her claim.

26. Finally, the denial of Lorena’s application for bond at the September 24 hearing on grounds of “mandatory detention” demonstrates that there are no meaningful and genuine administrative remedies or opportunities for Lorena to challenge her detention. *See Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.) (as amended) (judicial exhaustion may be excused when “available remedies provide no genuine opportunity for adequate relief” or exhaustion “would be futile”).

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Lorena Enters the United States Without Inspection in 2021

27. Lorena is a 34-year-old resident of Hyattsville, MD and a citizen and native of El Salvador.

28. In 2021, Lorena fled El Salvador for the United States, where she joined her sister. She entered without inspection and has resided in the United States with her sister since 2021.

29. On March 10, 2025, Lorena was served with a Notice to Appear and began her immigration court proceedings. Lorena's immigration court proceedings began because she affirmatively applied for asylum.

LEGAL BACKGROUND

Lorena Is Subject to 1226(a) Proceedings Not Expedited Removal Proceedings That Fall Under the Auspices of Section 1225(b).

The Statutory Framework at Issue

30. The Immigration Nationality Act ("INA") prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

31. First, 8 U.S.C. § 1226 ("Section 1226") authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229(a). Individuals in Section 1226(a) detention 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 who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

32. Throughout Lorena's five years in the United States, she has not been charged with or convicted of *any* crimes. She, therefore, should have been afforded a genuine bond hearing with a meaningful opportunity for release on bond.

33. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under Section 1225(b)(1) and for other recent arrivals seeking admission referred to under Section 1225(b)(2).

34. This expedited removal provision is the provision that Respondents erroneously assert applies to Lorena, albeit placing her in regular removal proceedings under Section 1226(a).

35. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

36. This provision too does not apply to Lorena, as she has not been ordered removed or is not in withholding proceedings.

The Interplay between §§ 1226(a) and 1225(b)(2) and DOJ's New Policy

37. This case concerns the detention provisions in Section 1226 and Section 1225.

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

39. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under Section 1225 and that they were instead detained

under Section 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

40. Thus, in the decades that followed, most people who EWI were placed in standard removal proceedings and received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

41. In the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner are applicants for admission and subject to detention under Section 1225(b)(2)(A). *See* Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

42. But this is wrong because Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under Section 1229(a), to “decid[e] the inadmissibility or deportability of a[[noncitizen].”

43. The text of Section 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. §

1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates “specific exceptions” to a statute’s applicability, it “proves” that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

44. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who EWI.

45. By contrast, Section 1225 applies to people arriving at U.S. ports of entry or who recently entered the United States – people subject to expedited removal. 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). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

ARGUMENT

Lorena’s Procedural Due Process Rights Are Being Violated Because Her Detention Contradicts the Plain Meaning of the Statue and She was Afforded No Notice or Opportunity to Contest Respondents’ Application of Section 1225(b) to Her Section 1226(a) Proceedings.

46. Procedural due process constrains governmental decisions that deprive individuals of property or liberty interests within the meaning of the Due Process Clause of the Fifth Amendment.

47. Because Lorena's detention has been unaccompanied by any of the procedural protections that such a significant deprivation of liberty requires under the Due Process Clause, for example any notice or opportunity to challenge this detention or meaningful process to contest her detention, her detention violates her procedural due process rights. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

48. The Supreme Court has long made clear that, where the government seeks to deprive an individual of a "particularly important individual interest[]," it must bear the burden of justifying this deprivation by clear and convincing evidence. *See, e.g., Addington v. Texas*, 441 U.S. 418, 424 (1979). In cases like Lorena's, who was suddenly detained without explanation, there is a significant interest at stake and a "clear and convincing" evidence standard provides the appropriate level of procedural protection. *See id.* at 423.

49. As set forth *supra*, on July 8, 2025, ICE in concert with DOJ announced a new policy prescribing mandatory detention with no bond eligibility for individuals who EWI. *See supra*, ¶13. As a result of this new policy, the immigration judge who heard Lorena's application for bond found that that she was subject to mandatory detention under Section 1225(b) (also known as INA § 235(b)(2)(A)). *See supra*, ¶11.

50. But that determination—which upends decades of precedent and for which no notice, let alone process, was given to Lorena—is arbitrary and capricious for all of the reasons concerning the procedural history of the INA and its subsequent reforms discussed above, *see supra*, ¶42. *See United States ex rel. Acardi v. Shaughnessy*, 347 U.S. 260, 265-266 (1954) (holding that the actions of the Attorney General denied Petitioner the rights guaranteed to him by statute or regulation); *see also Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024) (standing for the proposition that is the judiciary’s role to interpret statutory language at issue to ascertain the rights of the parties).

51. Courts to consider the issue have determined that the new policy issued by ICE and DOJ concerning the application of Section 1225(b)(2)(A) to those who EWI defies the INA. By way of example, after immigration judges in the Tacoma, Washington, immigration court stopped providing bond hearings for EWIs, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that Section 1226(a), not Section 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850, *12 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion).

52. Accordingly, pursuant to its plain meaning, the mandatory detention provision of Section 1225 does not apply to people like Lorena, who have already

entered and were residing in the United States at the time they were apprehended.

See Jennings, 583 U.S. at 287.

53. Lorena should have never been detained, necessitating her immediate release from detention.

54. Her detention is unconstitutional because she was never provided with notice that she would be detained on March 1, 2025, based on Respondents newfound interpretation of the INA, nor allowed to be heard on why such a determination was erroneous as applied to her.

55. Moreover, her bond application, which was denied on “mandatory detention” grounds based upon Respondents’ reinterpretation of the INA, was perfunctory and deprived her of any actual or genuine process and thus opportunity for relief – to wit, release, despite the fact that she falls within the auspices of Section 1226(a), not Section 1225(b). Due process requires that she be allowed to make her case as to this very point.

***Lorena’s Substantive Due Process Rights Are Being Violated Because Her
Detention Bears No Reasonable Relationship to Any Legitimate Government
Purpose***

56. Lorena’s detention violates her substantive right to due process because she is not subject to expedited removal and cannot be deemed a danger to the community or a flight risk

57. To comport with substantive due process, civil immigration detention must bear a reasonable relationship to its two regulatory purposes— (1) to ensure

the appearance of noncitizens at future hearings and (2) to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-91.

58. In her nearly five years of residence in the United States, Lorena has attended all of her immigration court proceedings and has had no criminal history. And, as demonstrated to the immigration court by Lorena's submissions with her since-denied bond application, she is an active member of her church; has strong and abiding personal ties to the community, and support of, many U.S. citizen members of the community.. There is therefore no reason to believe she would fail to appear at future hearings, or that she is somehow a danger to her community.

59. The government thus has no legitimate interest in detaining her. *See Demore v. Hyung Joon Kim*, 538 U.S. at 533 (2003) (O'Connor, J., concurring).

60. Indeed, no public interest is served by detaining a 34-year-old woman who has lived here uneventfully for nearly five years and committed no crimes in the meantime..

61. Lorena's detention is accordingly unlawful, warranting immediate release.

CLAIMS FOR RELIEF

COUNT ONE

Lorena's Arrest and Detention Violates Her Rights Under the Fifth Amendment's Guarantee of Procedural Due Process Because She Has Been Placed in 1226(a) Proceedings to Which Mandatory Detention Under Section 1225(b) Does Not Apply

67. Lorena realleges and incorporates by reference all of the aforementioned allegations included in the above-numbered paragraphs as if set forth fully herein.

68. The government's infringement upon Lorena's liberty interest triggers a right to meaningful process to contest that infringement, for example, to a hearing before that right is deprived. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569-70 (1972).

69. "The determination of what procedures are required under the Fifth Amendment requires consideration of: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." *Mathews*, 424 U.S. at 335.

70. Because Lorena's detention on March 1, 2025, has been unaccompanied by any hearing, or by any of the procedural protections that such a significant deprivation of her liberty interest would require, her continued detention violates her procedural due process rights. *See Id.* at 332.

71. The lack of individual consideration creates the highest risk of erroneous deprivation of liberty.

72. The governmental interest in providing these procedures is not burdensome as it merely comports with the Constitutional protections guaranteed by the Fifth Amendment.

73. Furthermore, the mandatory detention provision of the INA does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under Section 1226(a), unless they are subject to Sections 1225(b)(1), 1226(c), or 1231. Therefore, applying Section 1225(b)(2) to Lorena violates the plain text of the INA.

74. Separately, but equally relevant, on information and belief, Respondents adopted a policy of indiscriminately targeting noncitizens for arrest at immigration court buildings. This policy is arbitrary and capricious, and amounts to an abuse of discretion. *See Accardi*, 347 U.S. 260 (1954).

75. For these reasons, Lorena's ongoing detention is unconstitutional. She should accordingly be released.

COUNT TWO

Lorena's Detention Violates the Fifth Amendment's Substantive Due Process Guarantees Because It Bears No Reasonable Relationship to Any Legitimate Purpose.

76. Lorena realleges and incorporates by reference all of the aforementioned allegations included in above numbered paragraphs as if set forth fully herein.

77. Lorena's detention violates her substantive due process rights because her liberty is being restricted without justification. *See Hensley*, 411 U.S. at 351.; 28 U.S.C. § 2241(c)(3).

78. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690.

79. The only permissible detention purposes for detention—preventing danger and flight risk—are not present here, unlawfully infringing upon Lorena's liberty interest. *See Zadvydas*, 533 U.S. at 690-91.

80. For this reason, Lorena's detention is unconstitutional. She should accordingly be released.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Issue an order prohibiting Respondents from transferring Lorena outside of this judicial district during the pendency of these habeas proceedings;
- 3) Declare that Respondents' determination that Lorena is subject to mandatory detention is unconstitutional because she is subject to Section 1226(a) proceedings, not the expedited removal proceedings applicable to Section 1225(b).

- 4) Issue a Writ of Habeas Corpus and order Lorena's immediate release because she is neither a flight risk, nor a danger to the community and therefore cannot be incarcerated in immigration detention;
- 5) Award Petitioner her costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and,
- 6) Grant such further relief as the Court deems just and proper.

Lorena del Carmen Ascencio
LORENA DEL CARMEN ASCENCIO-
LOPEZ

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Eloy Detention Center
1705 East Hanna Road
Eloy, AZ 85131

DATED: April 18, 2026