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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

CARLA MERYAN DELGADO TIXE,

Petitioner,

v.

LADEON FRANCIS, Field Office Director of
Enforcement and Removal Operations,
ATLANTA Field Office, Immigration and
Customs Enforcement; Markwayne MULLIN,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Todd BLANCHE,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; Jason
STREEVAL Warden of STEWART
DETENTION CENTER, *in their official
capacities*

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Agency number: 

INTRODUCTION

1
2 1. Petitioner, CARLA MERYAN DELGADO TIXE, is in the physical custody of
3 Respondents at the STEWART DETENTION CENTER. She now faces unlawful detention
4 because the Department of Homeland Security (DHS) and the Executive Office of Immigration
5 Review (EOIR) will refuse to hold a bond hearing claiming to have no jurisdiction.

6 2. Petitioner came to the United States without inspection, with her two minor
7 children, seeking refuge due to persecution she was suffering in Peru on or about May 21, 2022.
8 Petitioner was then released and instructed to report to an ICE Office near her final destination
9 within 60 days. Petitioner subsequently filed an Application for Asylum with United States
10 Citizenship and Immigration Services, as she was not in removal proceedings.

11 3. Petitioner was arrested by Immigration and Customs Enforcement on or about
12 March 10, 2026, when her partner was pulled over for allegedly “failing to use a turn signal” in
13 Charlotte, North Carolina. Upon detention, she was transferred to the Stewart Detention Center
14 and issued a Notice to Appear. That Notice to Appear, dated March 10, 2026, alleges that
15 Petitioner entered on an *unknown* place, and on an *unknown* date, and charges her with being
16 subject to 212(a)(6)(A)(i), alien present in the US without being admitted or paroled; and,
17 212(a)(7)(A)(i)(I), Immigrant who at the time of application for admission, is not in possession
18 of a valid entry document. Petitioner’s record contains one misdemeanor offense for Petit theft,
19 to which her attorney pled “no contest” to in her absence on or about March 16, 2023. The
20 offense and disposition occurred prior to the enactment of the Laken Riley Act of 2025, and
21 therefore does not subject her to mandatory detention under 8 U.S.C. § 1226(c)(1)(E).

22 4. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be
23 released from detention, or in the alternative, that a bond hearing be held. Petitioner asks this
24 Court to find that Respondents’ detention of the Petitioner during the pendency of her removal

1 proceedings is arbitrary and capricious and in violation of the law, and to immediately issue an
2 order preventing Petitioner's transfer out of this district during the pendency of this petition.

3 JURISDICTION

4 5. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
5 STEWART DETENTION CENTER located in Lumpkin, Georgia.

6 6. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
7 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
8 Constitution (the Suspension Clause).

9 7. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
10 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

11 VENUE

12 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
13 500 (1973), venue lies in the United States District Court for the MIDDLE DISTRICT OF
14 GEORGIA, the judicial district in which Petitioner currently is detained.

15 9. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
16 Respondents are employees, officers, and agencies of the United States, and because a
17 substantial part of the events or omissions giving rise to the claims occurred in the MIDDLE
18 DISTRICT OF GEORGIA.

19 REQUIREMENTS OF 28 U.S.C. § 2243

20 10. The Court must grant the petition for writ of habeas corpus or order Respondents
21 to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
22 order to show cause is issued, Respondents must file a return "within three days unless for good
23 cause additional time, not exceeding twenty days, is allowed." *Id.*
24

1 and the immigration court system it operates is a component agency. He is sued in his official
2 capacity.

3 17. Respondent Executive Office for Immigration Review (EOIR) is the federal
4 agency responsible for implementing and enforcing the INA in removal proceedings, including
5 for custody redeterminations in bond hearings.

6 18. Respondent Jason Streeval is employed by CoreCivic as Warden of the Stewart
7 Detention Center where Petitioner is detained. He has immediate physical custody of Petitioner.
8 He is sued in his official capacity.

9 LEGAL FRAMEWORK

10 19. Immigration detention should not be used as a punishment and should only be
11 used when, under an individualized determination, a noncitizen is a flight risk because they are
12 unlikely to appear for immigration court or are a danger to the community. *Zadvydas v. Davis*,
13 533 U.S. 678, 690 (2001).

14 20. Noncitizens in immigration proceedings are entitled to Due Process under the
15 Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

16 21. The Immigration and Nationality Act (INA) establishes various procedures
17 through which individuals may be detained pending a decision on whether the noncitizen is to be
18 removed. 8 U.S.C. § 1226(a).

19 22. Removal proceedings described in section 240 of the INA are used to determine
20 whether individuals, such as Petitioner, should be removed from the United States. See 8 U.S.C.
21 § 1229a.

22 23. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a
23 right to apply for asylum to individuals seeking safe haven in the United States. The purpose of
24 the Refugee Act is to enforce the “historic policy of the United States to respond to the urgent

1 needs of persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a),
2 Pub.L. No. 96-212, 94 Stat. 102 (1980).

3 24. The “motivation for the enactment of the Refugee Act” was the United Nations
4 Protocol Relating to the Status of Refugees, “to which the United States had been bound since
5 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a
6 legislative purpose “to give ‘statutory meaning to our national commitment to human rights and
7 humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

8 25. The Refugee Act established the right to apply for asylum in the United States and
9 defines the standards for granting asylum. It is codified in various sections of the INA.

10 26. The INA gives the Attorney General or the Secretary of Homeland Security
11 discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that
12 definition, individuals generally are eligible for asylum if they have experienced past persecution
13 or have a well-founded fear of future persecution on account of race, religion, nationality,
14 membership in a particular social group, or political opinion and if they are unable or unwilling
15 to return to and avail themselves of the protection of their homeland because of that persecution
16 of fear. 8 U.S.C. § 1101(a)(42)(A).

17 27. Although a grant of asylum may be discretionary, the right to apply for asylum is
18 not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is
19 physically present in the United States or who arrives in the United States[.]” 8 U.S.C. §
20 1158(a)(1).

21 28. Immigration detention is a form of civil confinement that “constitutes a
22 significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441
23 U.S. 418, 4253 (1979).

29. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

30. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

31. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the individual's release when the facts and circumstances warrant it.

32. Revocation and return to custody is authorized only based on individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

FACTUAL BACKGROUND

33. Petitioner is a native and citizen of Peru who came to the United States, with her two minor children, on or about May 21, 2022 in order to seek asylum due to persecution her family was suffering.

34. Petitioner and her children were apprehended at the border by Customs and Border patrol and were subsequently released, on either their own recognizance or under some sort of parole, and they were told to report to their nearest ICE office within 60 days, per form I-385. (Petitioner's Exh. 6).

1 35. Petitioner has had an Asylum Application pending with United States Citizenship
2 and Immigration Services since November 9, 2024, and it includes her two minor children as
3 derivatives. Petitioner holds a valid Employment Authorization Document.

4 36. Petitioner was residing with her partner and her two minor children, in Charlotte,
5 NC. In March of 2026, her husband was stopped by Immigration and Customs Enforcement who
6 indicated that the husband “failed to use his turn signal.” Petitioner, a passenger in the vehicle,
7 was detained and transferred to the Stewart Detention Center in front of her two minor children.

8 37. Petitioner was issued a Notice to Appear dated March 10, 2026, alleging that she
9 entered at an unknown place, and on an unknown date, and charging Petitioner as being an alien
10 present in the United States without being admitted or paroled under 212(a)(6)(A)(i), and being
11 an immigrant who at the time of application for admission was not in possession of a valid
12 unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document
13 under 212(a)(7)(A)(i)(I).

14 38. Petitioner is neither a danger to the community nor a flight risk, however, the
15 Respondents are holding Petitioner without bond and any request for bond is futile as EOIR
16 Immigration Judges are claiming that they lack jurisdiction to conduct bond redetermination
17 hearings for similarly situated Petitioners, claiming that they are “applicants for admission.” Any
18 appeal to the Board of Immigration Appeals is also futile.

19 39. Petitioner’s detention severely damages her minor children’s ability to seek
20 asylum given that they are ages 11 and 15, which would make it difficult, if not impossible, to
21 testify on their own. Additionally, they do not have their own independent applications pending
22 for asylum, they are merely derivatives on their mother’s application.

23 40. On information and belief, Petitioner has only been arrested once for the
24 misdemeanor offense of petit theft in Broward County, Florida. That incident occurred on or

1 about November 17, 2022. According to the arrest report, they were consumable food items in
2 the amount of ~\$77 dollars to feed her family. Her attorney pled “no contest” to the offense in
3 her absence on or about March 16, 2023. Petitioner has otherwise been a person of good moral
4 character caring and providing for her children, through valid work authorization, while she
5 awaited the adjudication of her family’s asylum application.

6 41. Petitioner is not a mandatory detainee as applying the Act here would
7 impermissibly attach a new and severe legal consequence to past conduct. At the time of the
8 offense and no contest plea, the governing statutory scheme placed individuals like Petitioner
9 under INA § 236(a), where they were entitled to seek bond and receive an individualized custody
10 determination. The Laken Riley Act fundamentally alters that framework by mandating detention
11 without bond based on the same past conduct. This is precisely the type of retroactive effect the
12 Supreme Court has rejected. *Landgraf v. USI Film Products*, 511 U.S. 244 (1994).

13 42. Furthermore, Petitioner would urge this Court to please consider releasing her,
14 without the need for a bond hearing, due to concerns of futility and due process concerns. Former
15 Immigration Judge Burman’s Affidavit explains that, historically, bond hearings were
16 meaningful because judges typically set reasonable bond amounts to address flight risk rather
17 than denying bond outright, especially when individuals had ties to the community. However, the
18 judge describes a recent shift: increasing bond denials, removal of experienced judges, and a
19 climate of institutional pressure that may discourage decisions favorable to noncitizens. This
20 combination suggests that bond hearings are becoming ineffective, as outcomes appear less tied
21 to individualized assessments and more influenced by systemic changes that undermine due
22 process. (Petitioner’s Exh. 9).

23
24

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Abuse of Discretion

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

43. Petitioner restates and realleges all paragraphs as if fully set forth here.

44. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

45. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

46. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

47. Respondents’ decision to detain and transfer Petitioner constitutes an abuse of discretion because it fails to reflect a reasoned, individualized reassessment of her custody status. Petitioner was arrested for a minor, nonviolent petit theft offense in 2022, which she resolved through a no contest plea in 2023. Respondents failed to meaningfully consider the nature of the

1 offense, its mitigating circumstances, and its resolution in determining whether detention in
2 March of 2026 was warranted.

3 48. At the time of Petitioner's release at the border, Respondents had already
4 evaluated her circumstances and determined that she was neither a flight risk nor a danger to the
5 community. The subsequent reliance on a low-level offense that occurred years earlier—and was
6 fully resolved—does not constitute a material change sufficient to justify reversing that
7 determination, particularly absent any explanation as to why that incident now alters her risk
8 profile.

9 49. Moreover, Respondents have offered no reasoned explanation for the timing of
10 their decision. The offense at issue occurred in 2022 and was resolved in 2023, and yet
11 Respondents took no action to detain Petitioner on that basis until March 2026, following a
12 routine traffic stop involving her husband. This unexplained delay underscores the arbitrary
13 nature of Respondents' actions and their failure to articulate a rational connection between the
14 facts and the decision to detain and transfer Petitioner. By relying on a stale, minor, and already-
15 resolved offense—without addressing its age, context, or prior custody determinations—
16 Respondents failed to engage in reasoned decision-making. Accordingly, their actions are
17 arbitrary, capricious, and an abuse of discretion under 5 U.S.C. § 706(2)(A).

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law and in Excess of Statutory Authority

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

50. Petitioner restates and realleges all paragraphs as if fully set forth here.

51. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

52. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out 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).”

53. It is a well-established administrative principle that “agency action taken without lawful authority is at least voidable, if not void *ab initio*.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).

54. On information and belief, Respondents have revoked or are revoking Petitioner’s prior custody determination as a result of a categorical policy prepared by and implemented by

1 unidentified government officials in Washington, not through the individual exercise of
2 discretion required by law or by the individuals enumerated by regulation to do so.

3 55. Because Petitioner's revocation of release from custody has been made or will be
4 categorically directed by government officials not authorized by law to make this determination,
5 Respondents' detention of Petitioner is not in accordance with law and in excess of statutory
6 authority.

COUNT THREE

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

56. Petitioner restates and realleges all paragraphs as if fully set forth here.

57. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.

58. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

59. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

60. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and not based on a rational and individualized determination of whether she is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made, Respondents’ revocation of Petitioner’s release violates her right to procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this
Petition should not be granted within three days;
- (3) Declare that Petitioner's detention without an individualized determination
violates the Due Process Clause of the Fifth Amendment;
- (4) Declare that Petitioner's revocation of parole from custody was made in
violation of statute and regulation;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner
from custody, or to hold a bond hearing;
- (6) Issue an Order prohibiting the Respondents from transferring Petitioner from
the district without the court's approval;
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice
Act, and on any other basis justified under law; and
- (8) Grant any further relief this Court deems just and proper.

Respectfully submitted this 24th day of April, 2026.

/s/Matthew Boles

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Counsel for Petitioner

Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Matthew Boles

Date: April 24th, 2026

Matthew Boles