

Claire M. Carmona, Esq.
KY Bar Number: 98123
CMCO Law
18208 Preston Road
Ste D9 #319
Dallas, TX 75252
Tel: 859-333-1625
claire@cmcolaw.com

Attorney for Petitioner

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

Merling Del Carmen Ramos Pulido

Petitioner,

v.

MARCELLO VILLEGAS, Warden,
Bluebonnet Detention Center, Anson, Texas,
in his official capacity; ROBERT CERNA,
Acting Director, Dallas Field Office ICE
ERO, in his official capacity; TODD M.
LYONS, Acting Director, Immigration and
Customs Enforcement; in his official
capacity; SIRCE OWEN, Acting Director for
Executive Office for Immigration Review, in
his official capacity; MARKWAYNE
MULLINS, Secretary, U.S. Department of
Homeland Security, in his official
capacity; and TODD BLANCHE, Acting
Attorney General of the United States.

Respondents-Defendants.

Case No.:

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS;
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Challenge to Unlawful Incarceration Under
Color of Immigration Detention Statutes;
Request for Declaratory and Injunctive Relief

Agency File No.:



**AMENDED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO
28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner Merling Del Carmen Ramos Pulido (hereinafter “Ms. Ramos Pulido”) (Alien

No. [REDACTED] is a thirty-three-year-old native and citizen of Cuba who entered the United States without inspection on or about March 1, 2022, at or near San Luis, Arizona and was apprehended by Customs & Border Protection (“CBP”). *See Exhibit A*, Petitioner’s Cuban passport biographic page. *See also Exhibit B*, Petitioner’s I-862 dated March 2, 2022. On March 2, 2022, the Department of Homeland Security (“DHS”) released Petitioner on recognizance pursuant to Immigration and Nationality Act (“INA”) § 236(a) [8 U.S.C. § 1266(a)]. *See Exhibit B*, Form I-220A, dated March 2, 2022. Ms. Ramos Pulido came to the United States fleeing political persecution from the authoritarian regime in Cuba. To counsel’s knowledge, Ms. Ramos Pulido has no criminal convictions in the United States or any other country.

2. In December of 2022, Ms. Ramos Pulido applied for asylum, withholding of removal, and protection under the Convention Against Torture. She applied prior to reaching a year of physical presence in the United States.

3. On April 5, 2022, Ms. Ramos Pulido completed her first Immigration and Customs Enforcement (“ICE”) check-in. *See Exhibit C* at 6. Since the initial successful check-in 2022, Petitioner continued to check-in with ICE on a yearly basis.

4. On April 7, 2026, ICE apprehended Ms. Ramos Pulido during her ICE check-in. Petitioner was initially detained at the Prairieland Detention Facility in Alvarado, Texas. *See Exhibit D*, Form I-83 On April 9, 2026, ICE transferred Ms. Ramos Pulido to the Bluebonnet Detention Facility in Anson, Texas. *See Exhibit D*, ICE Form I-830E, dated April 2, 2026. *See also Exhibit E*, Form I-830E, dated April 9, 2026.

5. DHS initially released petitioner on personal recognizance on March 2, 2022. *See Exhibit C*. When DHS issued Petitioner ICE Form I-220A, they applied INA § 236(a) [8 U.S.C. § 1266(a)], which states in relevant part that immigration officials may employ discretion to “release

[them] on personal recognizance, provided they are not subject to mandatory detention." *Id.* As Petitioner was released in 2022, Respondents previously determined that Ms. Ramos Pulido was not subject to mandatory detention. *Id.*

6. On April 7th of 2026, DHS determined that Ms. Ramos Pulido is detained under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), pursuant to a July 2025 DHS policy and the BIA's decision in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Under this interpretation, Immigration Judges are stripped of jurisdiction to conduct custody redeterminations, and individuals like Petitioner are categorically denied bond hearings despite decades of contrary agency and judicial practice. DHS did not allege that Petitioner breached the conditions of her release, nor did they provide her with a written notice of his change in status.

7. Ms. Ramos Pulido's detention under § 1225(b)(2)(A) violates the text and structure of the INA and its implementing regulations. Federal courts across the country have rejected DHS's new interpretation of § 1225(b)(2) and have held that detention of people detained at the border and later released, as well as long-time residents apprehended in the interior years later, is governed by § 1226(a).

8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released immediately.

JURISDICTION AND VENUE

9. Ms. Ramos Pulido is currently under the care and direct control of the of the United States Department of Homeland Security ("DHS") and Immigrations and Cu Customs Enforcement (ICE) Enforcement and Removal Operations (ERO), who houses federal civil immigration detainees such as the Petitioner, who is housed at the Bluebonnet Detention Facility, in Anson, Texas, under the authority of Dallas Field Office ICE ERO.

10. This Court has jurisdiction under 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331 (*federal question*), 28 U.S.C. § 1651 (*All Writs Act*), 28 U.S.C. §§ 2201–2202 (*Declaratory Judgment Act*), 5 U.S.C. § 702 (*APA*), and Article I, Section 9, Clause 2 of the United States Constitution (*Suspension Clause*). Mr. Lopez-Fernandez is presently in custody under color of the authority of the United States and challenges her custody as in violation of the Constitution, laws, or treaties of the United States.

11. Federal district courts have jurisdiction under § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). The Supreme Court has repeatedly upheld such jurisdiction, most recently in *Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

12. Venue is proper in the Northern District of Texas, pursuant to 28 U.S.C. §§ 1391 and 2241(d), because Petitioner is detained within this District at the Bluebonnet Detention Facility in Anson, Texas.

PARTIES

13. Petitioner Merling Ramos Pulido is a native and citizen of Cuba unlawfully detained at the Bluebonnet Detention Facility in Anson, Texas. She is not subject to a final order of removal. Under DHS's July 2025 policy and the BIA's decisions *Matter of Yajure Hurtado* and *Matter of Q. Li*, Immigration Judges no longer have jurisdiction to redetermine custody for individuals like Ms. Ramos Pulido. As a result, she has been categorically denied access to a bond hearing.

14. Petitioner is currently in Respondents' legal and physical custody at the Bluebonnet Detention Facility in Anson, Texas.

15. Respondent Robert Cerna is the Field Office Director of ICE ERO in Dallas, Texas and is named in his official capacity. ICE is the component of DHS that is responsible for detaining

and removing noncitizens according to immigration law and oversees custody determinations. In his official capacity, he is the legal custodian of Petitioner.

16. Respondent Todd M. Lyons is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of Petitioner.

17. Respondent Sirce Owen is the Acting Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond hearings. Executive Office for Immigration Review ("EOIR") is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings. She is sued in her official capacity.

18. Respondent Markwayne Mullin is the Secretary of the DHS and is named in his official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the INA and all other laws relating to the immigration of noncitizens. In his capacity as Secretary, Respondent Mullins has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); see also 8 U.S.C. § 1103(a). Respondent Mullins is the ultimate legal custodian of Petitioner.

19. Respondent Todd Blanche is the Acting Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in his official capacity. He has the authority to interpret the immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the EOIR, which administers the immigration courts and the BIA.

20. Respondent Marcello Villegas is the Warden of the Bluebonnet Detention Center and acts at the direction of Respondents Cerna, Lyons, and Mullins. Respondent Villegas is a custodian of Petitioner and is named in his official capacity.

FACTS

21. Petitioner Merling Ramos Pulido is a native and citizen of Cuba unlawfully detained at the Bluebonnet Detention Facility in Anson, Texas. ICE has held her in custody since April 7, 2026, when they orally revoked her previous release on recognizance pursuant to Immigration and Nationality Act (“INA”) § 236(a) [8 U.S.C. § 1266(a)] and detained at her annual ICE check-in. She has been present in the country since March 1, 2022. *See Exhibit B.*

22. Ms. Ramos Pulido has no criminal convictions to counsel’s knowledge. She has never been convicted of any crime that would subject her to mandatory detention under INA § 1226(c). She is not subject to a final order of removal.

23. Historically, individuals like Ms. Ramos Pulido were detained under INA § 236(a), 8 U.S.C. § 1226(a), which provides for release on bond or conditional parole. After the BIA’s decision in *Matter of Q. Li*, however, any noncitizen detained at the United States border after entering without inspection was an “applicant for admission” under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A) and deemed ineligible for bond. *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025). This was later extended to anyone who entered without inspection, regardless of whether they were detained at the border or hundreds of miles from the border and regardless of whether they were first apprehended decades from their initial entry in *Matter of Yajure Hurtado*.

24. As a result of this policy and decision, Immigration Judges lack jurisdiction to conduct custody redeterminations for individuals like Ms. Ramos Pulido.

25. Federal district courts across the country, have rejected *Matter of Q. Li*’s and *Matter*

of *Yajure Hurtado*'s mandate of § 1225(b)(2) for individuals like Petitioner, finding instead that detention of individuals like her is under § 1226(a). Nonetheless, ICE continues to hold her without access to a bond hearing.

LEGAL FRAMEWORK

A. Due Process Clause

26. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "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).

27. In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. A noncitizen may only be detained based on these two justifications if they are otherwise statutorily eligible for bond. *Zadvydas*, 533 U.S. at 690.

28. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In this case, to determine the due process to be afforded to Petitioner, the Court should consider (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

B. Detention Provisions under the Immigration and Nationality Act

29. Under 8 U.S.C. § 1226(a), individuals are generally entitled to discretionary bond

determinations when detained. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Certain noncitizens who are arrested, charged with, or convicted of specified crimes are subject to mandatory detention until removal proceedings are concluded under 8 U.S.C. § 1226(c).

30. By contrast, 8 U.S.C. § 1225(b) applies to noncitizens applying for admission at the border. According to that provision, “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained.” 8 U.S.C. § 1225(b)(2)(A). Thus, unless the noncitizen is paroled into the country under 8 U.S.C. § 1182(d)(5)(A) for “urgent humanitarian reasons or significant public benefit,” such an individual is subject to mandatory detention and is ineligible for release on bond. *Jennings*, 583 U.S. at 288.

31. The U.S. Supreme Court has recognized that while “U.S. immigration law authorizes the government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (2),” “[i]t also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Id.* at 289.

32. Following enactment of these statutes, EOIR issued regulations clarifying that individuals who entered the country without inspection but who were apprehended in the interior were not detained under § 1225, but instead under § 1226(a). *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled...will be eligible for bond and bond redetermination.”). For nearly three decades, this was the consistent practice.

33. In *Matter of Q. Li*, the BIA upended years of precedent and understanding of which noncitizens were considered detained under § 1225 versus § 1226. In that case, the noncitizen was

arrested and detained under § 1225 at the border and was subsequently paroled into the United States. *Matter of Q. Li*, 29 I. & N. Dec. at 66. She was subsequently re-detained and denied bond because she was deemed to be an “applicant for admission” under § 1225, and her parole, which is the only exception to mandatory detention under § 1225, was later revoked when she was served with a Notice to Appear, thus returning her to her status under § 1225. *Id.*

34. In July 2025, DHS abruptly adopted a new interpretation expanding on *Q. Li* and requiring detention under § 1225(b)(2)(A) for all noncitizens charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, adopting DHS’s view and holding that all noncitizens present in the United States without admission are “applicants for admission” subject to mandatory detention under § 1225(b)(2)(A). As a result, any individual who entered the country without inspection is ineligible for bond.

35. Over 300 district courts have rejected this position and have granted habeas petitions for petitioners like Mr. Lopez-Fernandez. *See, e.g., Singh v. Lewis*, Civ. No. 4:25-cv-96, 2025 WL 2699219 (W.D.Ky., Sept. 22, 2025); *Beltran Barrera v. Tindall*, Civ. No. 3:25-cv-541, 2025 WL 2690565 (W.D.Ky., Sept. 19, 2025); *Rodriguez Vazquez v. Bostock*, Civ. No. 3:25-cv-05240, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, Civ. No. 1:25-cv-11571, 2025 WL 1869299 (D. Mass. July 7, 2025); *Garcia v. Hyde*, Civ. No. 25-11513 (D. Mass. July 14, 2025); *Rosado v. Bondi*, Civ. No. 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez-Benitez v. Francis*, Civ. No. 25-5937, 2025 WL 2371588, ---F. Supp.3d ---- (S.D.N.Y. Aug. 13, 2025); *Dos Santos v. Lyons*, Civ. No. 1:25-cv-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, Civ. No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Escalante v. Bondi*, Civ. No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025); *O.E. v. Bondi*, Civ. No. 25-cv-3051, 2025 WL 2235056 (D. Minn. Aug. 3, 2025); *Arrazola-Gonzalez v. Noem*, Civ. No. 5:25-cv-

01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, Civ. No. 25-cv-3162, 2025 WL 2374223 (D. Neb. Aug. 15, 2025); *Mayo Anicasio v. Kramer*, Civ. No. 4:25-cv-3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Rodriguez de Oliveira v. Joyce*, Civ. No. 2:25-cv-00291, 2025 WL 1826118 (D. Me. July 2, 2025); *Leal-Hernandez v. Noem*, Civ. No. 1:25-cv-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos*, Civ. No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Romero v. Hyde*, Civ. No. 25-11631, --- F. Supp. 3d ---, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Doe v. Moniz*, Civ. No. 1:25-cv-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Herrera Torralba*, Civ. No. 2:25-cv-01366, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Kostak v. Trump*, Civ. No. 3:25-1093, 2025 WL 2473136 (W.D. La. Aug. 27, 2025); *Simpiao v. Hyde*, Civ. No. 1:25-cv-11981-JEK, 2025 WL 2607925 (D. Mass. Sept. 9, 2024); *Garcia Cortes v. Noem*, Civ. No. 1:25-cv-02677, 2025 WL 2652990 (D. Colo. Sept. 16, 2026); *Jimenez v. Warden*, Civ. No. 25-cv-326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Cuevas Guzman v. Andrews*, Civ. No. 1:25-cv-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Velasquez Salazar v. Dedos*, Civ. No. 1:25-cv-00835, 2025 WL 2676729 (D.N.M. Sept., 17, 2025); *Hasan v. Crawford*, 1:25-cv-1408, 2025 WL 2682255 (E.D. Va., Sept. 19, 2025);); *Singh v. Lewis*, Civ. No. 4:25-cv-96, 2025 WL 2699219 (W.D.Ky., Sept. 22, 2025); *Beltran Barrera v. Tindall*, Civ. No. 3:25-cv-541, 2025 WL 2690565 (W.D.Ky., Sept. 19, 2025); *Chogllo Chafila v. Scott*, 2025 WL 2688541, (D.Me., Sept. 21, 2025); *Chiliquinga Yumbillo v. Stamper*, Civ. No. 2:25-cv-00479 (D.Me., Sept. 19, 2025); and *see also* Kyle Cheney, *More Than 100 Judges Have Ruled Against the Trump Admin's Mandatory Detention Policy*, POLITICO (October 31, 2025), <https://perma.cc/H6MZ-VC2Z>. Last visited Mar. 25, 2026.

36. The government's interpretation defies the INA's text and structure. Section 1226(a) explicitly applies to individuals charged as inadmissible after entry without inspection. Congress

reinforced this point in 2025 by amending § 1226(c) through the Laken Riley Act to exclude from bond eligibility certain noncitizens who entered without inspection and committed certain crimes. If Congress had intended all such individuals to be subject to mandatory detention under § 1225(b)(2)(A), it would not have needed to create these specific carve-outs. Construing § 1225(b)(2)(A) as the government suggests renders § 1226(c)(1)(E) superfluous, in violation of the canon against surplusage. See *Corley v. United States*, 556 U.S. 303 (2009).

37. In *Loper Bright*, the Supreme Court was clear that “[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority,” and indeed “may not defer to an agency interpretation of the law simply because a statute is ambiguous.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). Rather, this Court can simply look to the Supreme Court’s own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens “seeking admission into the country”—i.e., new arrivals, and that this contrasts with § 1226, which applies to noncitizens “already in the country.” *Jennings*, 583 U.S. at 289. The Supreme Court has likewise recognized that mandatory detention under § 1225(b) applies “at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is inadmissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

38. Therefore, the mandatory detention provisions of § 1225(b)(2) do not apply to Ms. Ramos Pulido. She is detained under § 1226(a) and is legally eligible for release.

C. The Fifth Circuit’s February 6, 2026 Decision in *Buenrostro-Mendez v. Bondi* Forecloses Petitioner’s Purely Statutory Claim to a Bond Hearing Under 8 U.S.C. § 1226(a) but does not Preclude Habeas Relief on Constitutional and other Grounds.

39. *Buenrostro-Mendez* forecloses Petitioner’s purely statutory entitlement theory

under § 1226(a), but it does not deprive this Court of habeas jurisdiction or resolve Petitioner's independent constitutional and other claims.

40. On February 6, 2026, a panel of three Appeals Justices the United States Court of Appeals for the Fifth Circuit issued its published opinion in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026). Two of the three justices on the panel held that noncitizens who are present in the United States without having been admitted or paroled—including those apprehended years after entry—are “applicants for admission” under 8 U.S.C. § 1225(a)(1) and are subject to mandatory detention under § 1225(b)(2)(A) pending removal proceedings under § 1229a. The panel further held that such individuals are not eligible for discretionary release on bond under § 1226(a) and that immigration judges lack jurisdiction to conduct bond hearings in their cases. The panel endorsed the Board of Immigration Appeals' precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and reversed two district court orders that had granted habeas relief on statutory grounds.

41. This Court is bound by the Fifth Circuit's holding on the purely statutory question of whether § 1225(b)(2)(A) or § 1226(a) governs Petitioner's detention and whether he has a statutory entitlement to a bond hearing before an immigration judge. Petitioner respectfully acknowledges that, under *Buenrostro-Mendez*, Petitioner has no statutory right to such a hearing.

42. However, the Fifth Circuit's decision does not resolve—and expressly did not reach—the independent constitutional and other claims raised in this Petition. The panel in *Buenrostro Mendez* addressed only the statutory interpretation dispute and reversed the district courts solely because they had granted bond hearings as a matter of statutory entitlement under § 1226(a). The panel had no occasion to consider due process challenges to prolonged or indefinite mandatory detention without any individualized hearing, nor did it address claims under the

Administrative Procedure Act, the equal protection component of the Fifth Amendment, the Suspension Clause, or the *Accardi* doctrine.

43. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), similarly held that there is no statutory right to periodic bond hearings under §§ 1225(b), 1226(a), or 1226(c), but it explicitly remanded for the lower courts to consider constitutional arguments in the first instance. *Id.* at 302–03. The Fifth Circuit's statutory holding in *Buenrostro-Mendez* leaves those constitutional questions open, just as *Jennings* did.

44. Nothing in *Buenrostro-Mendez* strips this Court of jurisdiction under 28 U.S.C. § 2241 to adjudicate constitutional challenges to immigration detention or to review whether the Executive's custody scheme violates governing law. *Jennings* itself distinguishes unreviewable discretionary custody judgments from reviewable questions of law and constitutional claims. Likewise, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*, 538 U.S. 510 (2003), both proceeded through § 2241 habeas and underscore that civil immigration detention must remain tethered to lawful purposes and must satisfy due process.

45. Petitioner does not ask this Court to second-guess a discretionary bond determination. She challenges DHS's asserted authority to hold her in prolonged civil detention without any meaningful individualized custody determination by a neutral decisionmaker empowered to order release, and she challenges the lawfulness of the government's detention process as applied to her.

D. As-Applied Due Process Violations from Prolonged or Indefinite Detention Without Individualized Hearing

46. Even accepting the Fifth Circuit's interpretation that § 1225(b)(2)(A) mandates

detention and provides no statutory bond hearing, Petitioner's ongoing and potentially indefinite detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment as applied to her.

47. Civil immigration detention is permissible only to the extent it serves the statutory purposes of ensuring appearance at proceedings and protecting the community from danger. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 527–28 (2003). When detention becomes prolonged or indefinite and is no longer tied to those purposes, it becomes punitive and unconstitutional. *Id.*

48. Although Petitioner's detention is currently less than a month, since April 7, 2026, Her pending applications for asylum, withholding of removal, and Convention Against Torture protection are complex and typically require extended proceedings—often lasting one to three years or more, nationals given country conditions evidence and backlog. Absent any mechanism for individualized review, Petitioner faces a substantial risk of indefinite detention under penal conditions despite having no criminal history, no disciplinary infractions, demonstrated compliance, and no individualized finding of danger or flight risk.

49. Numerous district courts, including within the Fifth Circuit, have held post-*Jennings* that due process requires an individualized bond hearing, with the government bearing the burden of proof by clear and convincing evidence, when mandatory detention under §§ 1225(b) or 1226(c) becomes prolonged. While the Fifth Circuit has not adopted a bright line rule, district courts in this Circuit and others commonly find six months presumptively unreasonable absent individualized justification. *See, e.g.*, practice advisories and district court orders cited in post-*Jennings* litigation, collecting cases requiring hearings after 6–12 months under analogous mandatory detention provisions.

50. The constitutional concerns are heightened here because the government's new interpretation—upheld in *Buenrostro-Mendez*—extends mandatory detention without bond or hearing to noncitizens who have lived openly in the United States for significant periods, here, over two years, accrued equities, and were not detained at the time of initial processing. Traditional “arriving alien” detention under § 1225(b) historically applied to those apprehended at or near the border or port of entry, where detention was typically brief pending expedited processing. Extending it to individuals in full § 1229a proceedings with meritorious relief claims raises far graver liberty interests than the brief detention upheld in *Demore* or contemplated for true arriving aliens.

51. Petitioner is a with no criminal record, no history of violence, and strong humanitarian claims. Continued categorical detention without any hearing—where the government never has to justify his confinement by evidence—serves no legitimate purpose and is punitive in effect.

E. Preservation of Statutory Argument for En Banc or Supreme Court Review

52. To preserve the issue for possible *en banc* review or *certiorari*, Petitioner respectfully submits that the majority panel in *Buenrostro-Mendez* erred in its statutory interpretation for the following reasons, which align with the overwhelming majority of district court decisions nationwide prior to February 6, 2026:

- a) The phrase “an alien seeking admission” in § 1225(b)(2)(A) is in the present tense and applies only to those actively seeking admission at the time of apprehension (e.g., at a port of entry or in active inspection), not to individuals living quietly in the interior years later.

- b) The government's and panel's reading renders § 1226(a)'s bond provisions largely superfluous for the vast majority of noncitizens in removal proceedings who entered without inspection.
- c) It contradicts three decades of consistent administrative practice (1997–2025), including EOIR regulations and DHS guidance treating such individuals as detained under § 1226(a).
- d) It reverses the congressional intent behind IIRIRA, which sought to eliminate incentives for evading inspection but did not contemplate mandatory indefinite detention for long-present residents.
- e) Over 350 district courts nationwide rejected the government's position in 2025–early 2026 habeas cases, finding the text, structure, and history compel application of § 1226(a).

53. These preserved arguments do not request this Court to disregard binding Fifth Circuit precedent on the statutory issue; they are included solely to preserve further review.

54. The APA claim remains viable because DHS's abrupt 2025 policy reversal—announced via internal memo without notice-and-comment or reasoned explanation for departing from 28 years of practice—is arbitrary and capricious under 5 U.S.C. § 706(2)(A). *Buenrostro Mendez* did not address this administrative law challenge.

55. Because *Buenrostro-Mendez* resolved only the statutory interpretation question, it does not preclude (a) equal protection challenges to arbitrary detention classifications and disparate treatment without a rational basis, (b) Suspension Clause claims where the government's scheme eliminates any meaningful mechanism—other than habeas—to test the

legality of detention, and (c) Accardi claims requiring the agency to follow its own binding arrest and processing regulations. *See* 8 C.F.R. § 287.8(c)(2)(i)–(ii).

56. For all these reasons, this Court may—and should—grant *habeas* relief on non-statutory grounds by ordering Respondents to order her immediate release under reasonable conditions of supervision or, in the alternative, provide Petitioner a prompt, individualized bond hearing before a neutral decisionmaker with the government bearing the burden to justify continued detention by clear and convincing evidence.

F. The Fifth Circuit Panel’s Decision in *Buenrostro-Mendez v. Bondi* is Inconsistent with *Loper Bright Enterprises v. Raimondo*

57. To further preserve the statutory issue for potential *en banc* review by the Fifth Circuit or certiorari to the Supreme Court, Petitioner respectfully submits that the panel's decision in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026), is inconsistent with the Supreme Court's controlling precedent in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which overruled *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

58. In *Loper Bright*, the Supreme Court held that courts “must exercise their independent judgment in deciding whether an agency has acted within its statutory authority” and may no longer defer to an agency's interpretation of an ambiguous statute under *Chevron*. *Id.* at 374. While agencies' views may still be entitled to respectful consideration under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944)—with persuasive force depending on factors such as the thoroughness of the agency's reasoning, the consistency of its position over time, and its expertise—courts must independently determine the best reading of the statute using traditional tools of statutory construction. *Loper Bright*, 603 U.S. at 402.

59. The majority panel in *Buenrostro-Mendez* did not adhere to this mandate. Although the panel conducted a textual analysis, its reasoning effectively accorded dispositive weight to the Board of Immigration Appeals' recent interpretation in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)—a 2025 decision that abruptly reversed nearly three decades of consistent administrative practice (1997–2025) treating unadmitted noncitizens apprehended in the interior as subject to discretionary detention and bond eligibility under § 1226(a). The panel adopted the BIA's new position wholesale, without acknowledging or applying the *Skidmore* factors that, post-*Loper Bright*, should have diminished the persuasive value of an inconsistent, late-breaking agency reversal.

60. Under *Skidmore* and *Loper Bright*, longstanding agency interpretations are entitled to greater weight precisely because consistency and reliance interests bolster their persuasiveness. Here, the opposite occurred: for 28 years, multiple administrations, EOIR regulations, and DHS guidance uniformly applied § 1226(a) to individuals in Petitioner's position. *See, e.g.*, 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). The BIA's 2025 reversal—prompted by a policy shift announced in a July 2025 DHS memo—lacks the hallmarks of thorough, consistent reasoning that could earn persuasive force. Yet the panel endorsed it without critically examining this inconsistency or independently weighing the superior reading supported by historical practice, statutory structure, and the overwhelming majority of pre-2026 district court decisions (over 350 nationwide).

61. This approach mirrors the deference prohibited by *Loper Bright*, as the panel appeared to treat the agency's new litigating position and BIA precedent as authoritative rather than exercising fully independent judgment. The panel dismissed the decades of contrary practice

as irrelevant (“The text says what it says, regardless of the decisions of prior administrations”), effectively insulating the agency's reversal from meaningful judicial scrutiny—the very dynamic *Loper Bright* rejected. As the dissent in *Buenrostro-Mendez* recognized, the majority's reading amounts to “rubber stamp[ing]” the government’s “proposed legislation by executive fiat,” a concern heightened in the post-*Chevron* era where courts must not abdicate their interpretive role.

62. The panel's failure to grapple with *Loper Bright*'s implications is particularly striking given that the BIA itself invoked *Loper Bright* in *Yajure Hurtado* to assert that the statute is “clear and unambiguous,” thereby attempting to preempt deference questions. But where reasonable minds differ—as evidenced by the hundreds of district courts rejecting the government’s position, the dissent's detailed critique, and the statutory tensions (*e.g.*, surplusage in § 1226(a), present-tense “seeking admission”)—*Loper Bright* requires courts to resolve ambiguity independently, not to defer to an agency's self-serving declaration of clarity after decades of interpreting the statute differently.

63. For these reasons, the panel's statutory holding warrants reconsideration *en banc*, as it conflicts with *Loper Bright*'s command that courts, not agencies, hold the ultimate responsibility for statutory meaning. This Court, while bound by the panel's result on the pure statutory claim in this Circuit, may note this tension in support of granting relief on the independent constitutional and APA grounds asserted herein.

CLAIMS FOR RELIEF

COUNT I

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

64. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

65. The mandatory detention provision of § 1225(b)(2) does not apply to noncitizens like Ms. Ramos Pulido who were apprehended inside the United States and later released on recognizance. Petitioner was not seeking admission, nor did she apply for admission at a port-of-entry. Such individuals are detained under § 1226(a) and are eligible for release on bond, as the Respondents initially determined in 2021, which swiftly resulted in Respondent being released on recognizance.

66. Respondents evaluated Petitioner's eligibility for release after her unlawful entry in 2022 and chose to release her on recognizance per INA § 236(a) [8 U.S.C. § 1266(a)].

67. On April 7, 2026, DHS engaged in revocation of their previous release on recognizance order from 2021. However, the DHS failed to outline any violation by Petitioner of the terms of her 2022 release agreement. They also failed to provide written notice of this change in status as required by 8 C.F.R. § 1036.1(c)(2), which stated in relevant part that "[t]he Service (ICE) can revoke bond or parole if (1) the alien breaches conditions and written notice of this change in status must be provided. *Id.*

68. Under the *Accardi* doctrine, agencies are required to follow their own rules and procedures. *Richardson v. Joslin*, 501 F.3d 415, 418 (5th Cir. 2007); *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). In the instant case, Respondents failed to provide Petitioner with regulatory due process when they retracted Ms. Ramons Pulido's release and detained hier without written notice explaining the change in status and Petitioner's violation that resulted in such a harsh consequence as prescribed by 8 C.F.R § 241.2(1)(1).

69. Petitioner is not seeking admission, nor did she apply for admission at a port-of-entry. Such individuals are detained under § 1226(a) and are eligible for release on bond, as this Court has already found.

70. Respondent's decision to detain Ms. Ramos Pulido under § 1225(b)(2)(A) unlawfully denies her access to a bond hearing in violation of the INA.

COUNT II

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19

71. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

72. For decades, both Congress and the agencies charged with implementing the INA have recognized that individuals who were detained after entering without inspection are detained under § 1226(a) and eligible for bond, as reflected in implementing regulations at 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

73. Despite this clear regulatory framework, Respondents have unlawfully detained Ms. Ramos Pulido by misapplying § 1225(b)(2).

74. Because Petitioner's detention has been unaccompanied by the procedural protections that such a significant deprivation of liberty requires, including access to a bond hearing, her continued detention violates the INA, its implementing regulations, and the Due Process Clause of the Fifth Amendment.

COUNT III

Violation of the Fifth Amendment Due Process

75. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

76. Under the Fifth Amendment of the Constitution, no person shall be deprived of liberty without due process of law. Freedom from imprisonment and government custody lies at the core of the liberty protected by the Due Process Clause. *See Zadvydas v. Davis*, 533 U.S.

678, 690 (2001). The protections of the Due Process Clause extend to all persons within the United States, regardless of immigration status. *Id.* at 693.

60. Under the *Accardi* doctrine, agencies are required to follow their own rules and procedures. *Richardson v. Joslin*, 501 F.3d 415, 418 (5th Cir. 2007); *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). In the instant case, Respondents failed to provide Petitioner with regulatory due process when they retracted Ms. Ramos Pulido's release and detained her without written notice explaining the change in status and Petitioner's violation that resulted in such a harsh consequence.

61. Respondents' detention of Ms. Ramos Pulido under § 1225(b)(2), without notice of revocation or the possibility of release on bond or a meaningful custody redetermination, violates her right to due process under the Fifth Amendment.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Order Respondent to show cause why the writ should not be granted within **three days**, pursuant to 28 U.S.C. § 2243;
3. Grant a writ of habeas corpus declaring that Petitioner's detention is governed by INA § 236(a), 8 U.S.C. § 1226(a), and ordering Respondents to provide her with an immediate bond hearing before an Immigration Judge applying § 1226(a);
4. In the alternative, order Petitioner's immediate release from custody under reasonable conditions of supervision if Respondents fail to provide such a bond hearing within a reasonable period of time;

5. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
6. In the event the Court determines a genuine dispute of material fact exists regarding Petitioner's entitlement to habeas relief, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243;
7. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
8. Declare that Petitioner's detention violates the INA;
9. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
10. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
11. Grant such further relief as this Court deems just and proper.

Dated: April 24, 2026

Respectfully submitted,

/s/ Claire McVey Carmona
Claire McVey Carmona, Esq.
CMCO Law
18208 Preston Rd.
Ste. D9-#319
Dallas, TX 75252
Tel.: 859-333-1625
claire@cmcolaw.com

VERIFICATION

I, Claire McVey Carmona, counsel for Petitioner hereby verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual allegations in this petition are true and correct to the best of my knowledge, information, and belief, based upon the records available and information provided by Petitioner.

Dated: April 24, 2026

Respectfully submitted,
/s/ Claire M. Carmona
Claire McVey Carmona, Esq.