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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

URIMARY MARIA ROMERO PALOMARES,
Petitioner,

Case Number: 3:26-cv-1023

v.

MARKWAYNE MULLIN, in her official capacity as Secretary of the Department of Homeland Security; **TODD BLANCHE**, in her official capacity as Attorney General of the United States; **IMMIGRATION AND CUSTOMS ENFORCEMENT; ICE FIELD OFFICE DIRECTOR**, Jacksonville Field Office; **UNITED STATES DEPARTMENT OF HOMELAND SECURITY; RICK STALY**, in his official capacity as Sheriff of Flagler County and manager and overseer of Flagler County Detention Center, Respondents. _____ /

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

I. INTRODUCTION

1. Petitioner Urimary Maria Romero Palomares ("Petitioner") is a 31-year-old citizen of Venezuela and the sole primary caregiver of two minor children, ages four and five, who have been without their mother since Petitioner's arrest at approximately 5:30 a.m. on February 11, 2026. Petitioner has been detained at the Flagler County Detention Center in Bunnell, Florida, for more than fifty days, without a bond hearing, without lawful authority to remove her, and in violation of her constitutional rights to due process and liberty.
2. On April 3, 2026, Petitioner, through counsel, filed a Statutory Motion to Reopen and, in the Alternative, Motion for Sua Sponte Reopening ("Motion to Reopen" or "MTR") with the United States Immigration Court in Dallas, Texas. The filing of that motion triggered an **automatic stay of removal** pursuant to 8 C.F.R. § 1003.23(b)(1)(ii), which prohibits Petitioner's removal from the United States for the pendency of those proceedings. Removal is therefore **legally prohibited**. Detention to effectuate a removal that cannot lawfully occur serves no legitimate statutory purpose and cannot be sustained.
3. Independently, Petitioner is not properly subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Petitioner entered the United States on December 26, 2023, and has continuously resided here for more than two years. She is not an "arriving alien" or a noncitizen "seeking admission" within the meaning of § 1225(b)(2). As this Court held in *Rodriguez Valencia v. Noem*, Case No. 3:26-cv-297-MMH-PDB (M.D. Fla. Mar. 16, 2026), noncitizens who have continuously resided in the United States are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and are entitled to a bond hearing before an immigration judge—or, where the government cannot identify a lawful basis for continued detention, to immediate release.

4. Petitioner has no criminal history of any kind. She is a survivor of sustained domestic violence and coercive control perpetrated by her former partner, whose abuse directly caused her failure to appear at her immigration hearing and the destruction of all of her immigration documents. Her two minor children—ages four and five—are currently in the care of a family friend and have been without their mother for over fifty days. Petitioner seeks a writ of habeas corpus under 28 U.S.C. § 2241 directing her immediate release, or in the alternative, an order directing an individualized bond hearing.

II. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 2241. The writ of habeas corpus extends to individuals in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3). Noncitizens detained in immigration custody may seek habeas relief in federal district court. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

6. This Court has authority to grant the writ and to dispose of the matter as law and justice require. 28 U.S.C. § 2243.

7. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) bars this Court's jurisdiction. Petitioner does not challenge the decision to commence proceedings, adjudicate her case, or execute a removal order. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Rather, Petitioner challenges the *legality of her detention* and the absence of any lawful authority to detain her while removal is legally stayed. *Rodriguez Valencia v. Noem*, Case No. 3:26-cv-297-MMH-PDB, at 4–6 (M.D. Fla. Mar. 16, 2026).

8.Exhaustion of administrative remedies is not required and would be futile. The Board of Immigration Appeals has already held that immigration judges have no authority to consider bond requests from noncitizens who entered the United States without inspection. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025). This Court has recognized that requiring a petitioner to pursue such futile remedies is not required. *Rodriguez Valencia*, at 6–7.

9.Venue properly lies in the Middle District of Florida, Jacksonville Division, pursuant to 28 U.S.C. § 1391, because Petitioner is currently detained at the Flagler County Detention Center, 1002 Justice Lane, Bunnell, Florida 32110, which is located within this district.

III. PARTIES

10.**Petitioner** Urimary Maria Romero Palomares is a 31-year-old native and citizen of Venezuela (A# ) , currently detained at the Flagler County Detention Center, 1002 Justice Lane, Bunnell, Florida 32110. She has no criminal history of any kind.

11.**Respondent Markwayne Mullin** is the Secretary of the Department of Homeland Security and is sued in his official capacity. She is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).

12.**Respondent Todd Blanche** is the Attorney General of the United States and is sued in his official capacity as the head of the Department of Justice.

13.**Respondent Rick Staly** is the Sheriff of Flagler County and, in that capacity, oversees and manages the Flagler County Detention Center and is responsible for Petitioner's day-to-day confinement.

14. Respondents DHS, ICE, and the ICE Jacksonville Field Office Director are responsible for civil immigration enforcement and for Petitioner's immigration custody.

IV. STATEMENT OF FACTS

A. Background and Entry

15. Petitioner Urimary Maria Romero Palomares is a 31-year-old native and citizen of Venezuela, born on [REDACTED], in Maracaibo, Estado Zulia. Petitioner is the mother of two minor children, D [REDACTED] (D.O.B. [REDACTED]) and D [REDACTED] [REDACTED] (D.O.B. [REDACTED]).

16. Petitioner entered the United States on or about December 26, 2023, near Ciudad Juárez, Mexico, seeking safety from a sustained pattern of domestic violence, battery, extreme cruelty, and coercive control perpetrated by her former partner, [REDACTED]. [REDACTED] The Department of Homeland Security placed Petitioner in removal proceedings before the Dallas, Texas Immigration Court following her entry.

17. Petitioner has continuously resided in the United States since December 26, 2023—a period exceeding two years. She is not in the process of "arriving" in the United States. She is not a noncitizen "seeking admission" within any ordinary meaning of that phrase. She has resided, worked, and raised her children in the United States throughout this period.

B. Domestic Violence, Coercive Control, and Destruction of Immigration Documents

18. Following Petitioner's entry, her former partner subjected Petitioner to an escalating pattern of physical abuse, verbal threats, intimidation, and coercive control. The abuse escalated severely over 2024 and into 2025.

19. In September 2024, fearing for her safety and that of her children, Petitioner fled to Arizona.

In December 2024, her former partner located her in Arizona, appeared at her residence screaming threats, and physically seized one of the minor children from Petitioner's arms while the child was crying and pleading with him to stop. Neighbors called police, but no officers arrived in time.

20. In January 2025, Petitioner's former partner escalated his interference with her immigration proceedings. When Petitioner expressed her intention to file for asylum, he told her she would not remain in the United States without him and then **burned all of Petitioner's immigration documents**—including all paperwork related to her pending immigration case—in front of Petitioner and her minor children. From that moment, Petitioner had no access to any information about her case, her hearing date, or her file number. She had no ability to reconstruct any information about her immigration proceedings.

21. Petitioner's former partner also threatened that if anything happened to the children, or if Petitioner returned to Venezuela without them, she would suffer serious consequences. These threats prevented Petitioner from seeking assistance from authorities or independently pursuing her immigration case. As a direct result, Petitioner was unable to appear at her immigration hearing, and the Immigration Judge entered a removal order in absentia.

C. Arrest, Detention, and the Pending Motion to Reopen

22. On February 11, 2026, at approximately 5:30 a.m., Petitioner was arrested by ICE Florida and transported to the Flagler County Detention Center in Bunnell, Florida, where she has remained detained ever since. **Petitioner has no criminal history of any kind.** Her two

minor children, then ages approximately four and five, have been in the sole care of a family friend, Carmen Figueroa, since the date of Petitioner's arrest.

23. Petitioner's former partner was separately arrested for theft in May 2025, taken into ICE custody, and deported to Venezuela—the country to which Petitioner's removal has been ordered. His deportation does not eliminate Petitioner's fear of return; it confirms that if Petitioner is removed to Venezuela, she will be returned to the same country where her abuser now resides, with full knowledge of her location and a history of credible threats of violence against her and her children.

24. On April 3, 2026, Petitioner filed a Statutory Motion to Reopen and, in the Alternative, Motion for Sua Sponte Reopening with the Dallas Immigration Court, pursuant to INA § 240(c)(7), INA § 240(b)(5)(C)(i), and 8 C.F.R. § 1003.23(b)(1). The motion raises three independent grounds for reopening: (1) Petitioner's failure to appear was the direct result of battery, extreme cruelty, and coercive control—exceptional circumstances expressly enumerated in INA § 240(e)(1); (2) changed country conditions arising from the deportation of Petitioner's abuser to Venezuela; and (3) new and previously unavailable evidence, including a complete application for asylum, withholding of removal, and CAT protection.

25. The filing of the Motion to Reopen triggered an **automatic stay of removal** pursuant to 8 C.F.R. § 1003.23(b)(1)(ii), which provides that the filing of a motion to reopen an in absentia order operates as an automatic stay of removal. **Petitioner's removal is therefore currently legally prohibited.** Respondents have been served with notice of the pending motion.

26. As of the date of this filing, Petitioner has been detained for more than fifty days. She has received no bond hearing. She has no criminal history. She cannot be removed. Her two young children have been without their mother for the entirety of this period.

V. LEGAL ARGUMENT

A. Petitioner Is Not Subject to Mandatory Detention Under § 1225(b)(2) and Is Entitled to Relief Under § 1226(a)

27. The government appears to be detaining Petitioner under 8 U.S.C. § 1225(b)(2), which applies to "applicants for admission"—specifically noncitizens who are "arriving in the United States" or who are present without admission. 8 U.S.C. § 1225(a)(1). Section 1225(b)(2) imposes mandatory detention for the duration of removal proceedings. Petitioner is not properly detained under this provision.

28. This Court has recently and squarely addressed this precise question. In *Rodriguez Valencia v. Noem*, Case No. 3:26-cv-297-MMH-PDB (M.D. Fla. Mar. 16, 2026), this Court held that a noncitizen who entered the United States without inspection but has since continuously resided in the country for more than a year is not properly classified as an "applicant for admission" under § 1225(b)(2), but rather is detained under § 1226(a), which affords the right to a bond hearing before an immigration judge. The Court ordered the petitioner's immediate release because the government had not established lawful authority for continued detention under § 1226. *Id.* at 15–17.

29. Petitioner's circumstances are materially identical. Like the petitioner in *Rodriguez Valencia*, Petitioner entered the United States without inspection more than two years ago and has continuously resided here since December 26, 2023. "It would be absurd to find that

[Petitioner] is still in the process of 'arriving' in the United States when she has been continuously residing here for at least a year." *Rodriguez Valencia*, at 14–15.

30. Dozens of district courts around the country—including multiple judges in this district—have rejected the government's interpretation that § 1225(b)(2) requires mandatory detention of all noncitizens who entered without inspection, regardless of how long they have resided in the country. *See, e.g., Cetino v. Hardin*, No. 2:25-CV-1037-JES-DNF (M.D. Fla. Dec. 12, 2025); *Guaquire v. Quinones*, No. 6:26-cv-169-RBD-RMN (M.D. Fla. 2026); *Belsai D.S. v. Bondi*, 2025 WL 2802947, at *5 (D. Minn. Oct. 1, 2025) ("Overwhelmingly, courts have rejected the interpretation offered by [the] [r]espondents").

31. Because Petitioner is not properly detained under § 1225(b)(2), her detention is governed by 8 U.S.C. § 1226(a), which requires that she receive an individualized bond hearing. The government has not justified her continued detention under that standard. Under *Rodriguez Valencia*, where the government fails to articulate a lawful basis for continued detention under § 1226, immediate release is the appropriate remedy. *Id.* at 15–16.

B. The Automatic Stay of Removal Independently Renders Petitioner's Detention Unlawful

32. Independently and additionally, Petitioner's continued detention is unlawful because her removal is legally prohibited by an automatic stay.

33. Federal regulation provides that the filing of a motion to reopen an in absentia removal order operates as an automatic stay of removal: "[A] motion to reopen or a motion to reconsider shall stay the execution of any order of deportation, exclusion, or removal." 8 C.F.R. § 1003.23(b)(1)(ii). The automatic stay attaches upon filing and remains in effect for the pendency of the motion. Petitioner filed her Motion to Reopen on April 3, 2026. The automatic stay is now in effect.

34. The statutory and constitutional authority to detain a noncitizen in removal proceedings is premised on the government's ability to effectuate removal. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (detention permitted only insofar as it is "reasonably necessary" to effectuate removal). Where removal is legally prohibited—as it is here by operation of the automatic stay—detention to effectuate that removal serves no lawful purpose and cannot be sustained.

35. The automatic stay is particularly significant here because Petitioner's Motion to Reopen raises exceptional circumstances expressly recognized by statute. INA § 240(e)(1) expressly identifies "battery or extreme cruelty" as exceptional circumstances warranting rescission of an in absentia removal order. INA § 240(b)(5)(C)(i) provides that motions to reopen based on such circumstances may be filed *at any time* and are not subject to the ninety-day filing deadline. The pending motion presents non-frivolous, meritorious grounds for reopening. Until those grounds are adjudicated, removal cannot occur and detention cannot be justified.

C. Petitioner's Prolonged Detention Without a Bond Hearing Violates the Due Process Clause

36. Noncitizens present in the United States are entitled to due process under the Fifth Amendment. *Zadvydas*, 533 U.S. at 690. Freedom from imprisonment lies at the heart of the liberty the Due Process Clause protects. *Id.* "There is no identifiable legitimate public interest served by [P]etitioner's likely unlawful detention without a bond hearing." *Rodriguez Valencia*, at 16.

37. Petitioner has been detained for more than fifty consecutive days without a bond hearing and without any individualized determination that her detention is warranted. She has no

criminal history. She is a documented survivor of domestic violence who was deprived of all ability to participate in her prior immigration proceedings through no fault of her own. Her two minor children, ages four and five, have been without their primary caregiver for the entirety of her detention. She presents no flight risk and no danger to the community. Continued detention under these circumstances, without any opportunity to seek release, violates the Fifth Amendment's guarantee of due process.

D. The Equities Overwhelmingly Favor Immediate Release

38. The equities in this case are exceptional and strongly favor Petitioner's immediate release:

No criminal history: Petitioner has no criminal history of any kind—not in the United States, not in Venezuela, not in Chile.

Domestic violence survivor: Petitioner is a documented survivor of battery, extreme cruelty, and coercive control. Her former partner burned her immigration documents, physically assaulted her, and threatened her and her children to prevent her from pursuing her legal rights.

Minor children without caregiver: Petitioner's two minor children—ages four and five—have been in the sole care of a family friend since February 11, 2026. They have been without their primary caregiver for the entire period of Petitioner's detention.

Strong merits: Petitioner's pending Motion to Reopen presents three independent statutory grounds for relief, each of which is expressly recognized by the INA. Her asylum application raises both a domestic violence claim and a political persecution claim arising from her family's opposition activities and the colectivo attack she suffered in Venezuela in 2016.

Legally prohibited removal: Petitioner cannot be removed at this time. The automatic stay prevents her removal for the pendency of her Motion to Reopen. Detention to effectuate an impossible removal serves no lawful governmental interest.

Community ties: Petitioner has community ties documented by multiple support letters filed with her Motion to Reopen. She is not a flight risk.

VI. CLAIMS FOR RELIEF

Count One: Writ of Habeas Corpus—Unlawful Detention Under § 1225(b)(2)

39. Petitioner repeats and re-alleges all preceding paragraphs as if fully set forth herein.

40. Petitioner has continuously resided in the United States for more than two years. She is not an "arriving alien" and is not a noncitizen "seeking admission" under 8 U.S.C. § 1225(b)(2). Her detention is governed by 8 U.S.C. § 1226(a). She is entitled to an individualized bond hearing. Because the government has not identified any lawful basis for her continued detention under § 1226(a), and because she cannot be removed due to the automatic stay, Petitioner is entitled to immediate release. *Rodriguez Valencia v. Noem*, Case No. 3:26-cv-297-MMH-PDB (M.D. Fla. Mar. 16, 2026).

Count Two: Writ of Habeas Corpus—Unlawful Detention in Violation of Automatic Stay

41. Petitioner repeats and re-alleges all preceding paragraphs as if fully set forth herein.

42. The automatic stay of removal triggered by Petitioner's April 3, 2026 Motion to Reopen legally prohibits Petitioner's removal. 8 C.F.R. § 1003.23(b)(1)(ii). There is no statutory authority to detain a noncitizen when removal is legally stayed and not reasonably foreseeable. Petitioner's continued detention is therefore unlawful and she is entitled to immediate release or, at minimum, an individualized bond hearing.

Count Three: Emergency Declaratory and Injunctive Relief

43. Petitioner repeats and re-alleges all preceding paragraphs as if fully set forth herein.

44. Petitioner faces a substantial likelihood of success on the merits for the reasons stated above.

She will suffer irreparable harm if relief is not granted: she faces the risk of erroneous removal in violation of the automatic stay, continued unconstitutional detention without due process, and separation from her minor children. The threatened injury to Petitioner's constitutional rights vastly outweighs any harm to Respondents from compliance with the law. The public interest is best served by faithful execution of immigration laws, which includes compliance with automatic stays and due process protections. Petitioner therefore requests, in the alternative, an emergency temporary restraining order and preliminary injunction prohibiting Respondents from removing Petitioner from the Flagler County Detention Center or from the Middle District of Florida pending adjudication of this Petition.

VII. REQUESTED RELIEF

For the foregoing reasons, Petitioner respectfully requests that this Court:

- 1.** Grant the Verified Petition for Writ of Habeas Corpus and order Petitioner's immediate release from custody within 24 hours of this Order;
- 2.** In the alternative, order Respondents to provide Petitioner with an individualized bond hearing before an immigration judge at which the government bears the burden of justifying Petitioner's continued detention;

3. Issue an emergency temporary restraining order and/or preliminary injunction prohibiting Respondents from removing Petitioner from the Flagler County Detention Center or from the Middle District of Florida pending adjudication of this Petition;
4. Issue an emergency temporary restraining order prohibiting Respondents from transferring Petitioner to any other detention facility or to ICE custody outside this Court's jurisdiction pending adjudication of this Petition;
5. Order expedited proceedings under 28 U.S.C. § 2243; and
6. Grant such other and further relief as this Court deems just, necessary, and proper.

Respectfully submitted this 27th day of April, 2026.

/s/ Anny Leon

Anny Leon, Esquire

Florida Bar No.: 1010760

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Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2026, I electronically served a copy of the foregoing on the Flagler County Detention Center, 1002 Justice Lane, Bunnell, FL 32110, via email to DEngert@flaglersheriff.com; ICE-Jacksonville Field Office via email to

Miami.Outreach@ice.dhs.gov and Orlando.DutyAtty@ice.dhs.gov; and the Office of the Principal Legal Advisor (OPLA), DHS, 1100 Commerce St., Suite 1060, Dallas, Texas 75242.

/s/ Anny Leon

Anny Leon, Esquire

VERIFICATION

I, Anny Leon, am counsel for Petitioner Urimary Romero in this habeas corpus proceeding. Petitioner is currently detained in immigration custody and is therefore unable to personally verify this Petition.

Pursuant to 28 U.S.C. § 2242, I verify on behalf of Petitioner that the factual statements contained in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief, based upon my communications with Petitioner and review of records and information available to me.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 27th day of April, 2026, at Jacksonville, Florida

/s/ Anny Leon

Attorney for Petitioner