UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

A.M.H.G,

Petitioner,

vs.

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

Respondents.

CASE NO.:

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

## I. INTRODUCTION

1. This Petition challenges the ongoing and unlawful detention of Petitioner, A.M.H.G. (Petitioner), A# [redacted] by U.S. Immigration and Customs Enforcement (ICE) at the Stewart Detention Center, Georgia. *See* Exhibit 1 (ICE Locator). This detention, unlawful from its inception, began with a **warrantless arrest** that lacked statutory authority and is perpetuated by Respondents' misapplication of mandatory detention statutes meant only for noncitizens arriving at the border. Petitioner is neither a flight risk nor a

danger to the community. Petitioner was apprehended in the interior of the United States after a domestic dispute with her husband, years after her entry, and DHS is treating her as subject to mandatory detention without bond under 8 U.S.C. § 1225(b)(2)(A). Petitioner's detention is unlawful under every conceivable statutory theory, trapping Respondents in a legal "Catch-22" of their own making. The detention is void *ab initio* because it began with an illegal warrantless arrest and is now perpetuated under a statute that has no application to her. The Immigration and Nationality Act (INA) provides only two potential authorities for a civil immigration arrest in the interior of the country, and Respondents satisfied neither. Petitioner is requesting leave to proceed under her initials as a pseudonym in order to protect her identity as part of asylum protections as she is an asylum applicant who fears harm and retaliation.

2. Binding Eleventh Circuit precedent forecloses that detention theory. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, --- F.4th ----, 2026 WL 1243395 (11th Cir. 2026), the Eleventh Circuit held that § 1225(b)(2)(A) does not impose no-bond mandatory detention on interior noncitizens who previously entered without inspection but were not seeking lawful entry when arrested.

3. The Eleventh Circuit held that § 1225(b)(2)(A) is limited to applicants for admission who are "seeking admission," and that neither petitioner there was seeking lawful entry when arrested after a domestic dispute.

4. The Eleventh Circuit further explained that § 1226 generally governs the arrest and detention of noncitizens present in the country pending removal proceedings, while § 1225 governs arriving noncitizens seeking entry at the border or port of entry.

5. Petitioner is materially situated like the petitioners in *Hernandez Alvarez* in the legally relevant respect: she was encountered and detained in the interior of the United States long after her entry and was not then seeking lawful entry at a border, port of entry, or inspection point. Unlike the petitioners in *Hernandez Alvarez*, Petitioner was previously inspected and paroled into the United States, which further underscores that she was not seeking admission when ICE later assumed custody in the interior.

6. The Seventh Circuit's decision in *Castañon-Nava v. U.S. Department of Homeland Security*, --- F.4th ----, 2026 WL 1223250 (7th Cir. 2026), provides persuasive support for the same reading of the INA. In *Castañon-Nava*, the Seventh Circuit concluded that § 1225(b)(2)(A) applies to applicants for admission seeking lawful entry at the border or ports of entry, not to noncitizens living in the interior.

7. Respondents' principal detention theory is foreclosed by binding Eleventh Circuit precedent. Petitioner was apprehended in the interior of the United States years after entry and was not seeking lawful entry at a border, port of entry, or other inspection point when ICE assumed custody. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, --- F.4th ----, 2026 WL

1243395 (11th Cir. 2026), the Eleventh Circuit held that 8 U.S.C. § 1225(b)(2)(A) does not authorize no-bond mandatory detention for interior noncitizens who previously entered without inspection but were not "seeking admission" when arrested. Petitioner's custody therefore must proceed, if at all, under 8 U.S.C. § 1226, unless DHS proves that a specific mandatory-detention provision applies.

8. Independently, Petitioner also challenges the legality of ICE's warrantless seizure. Section 1226(a) authorizes arrest and detention "[o]n a warrant issued by the Attorney General," while 8 U.S.C. § 1357(a)(2) permits a warrantless civil immigration arrest only when the officer has reason to believe the person is unlawfully present and likely to escape before a warrant can be obtained. In *Castañon-Nava v. U.S. Department of Homeland Security*, --- F.4th ----, 2026 WL 1223250 (7th Cir. 2026), the Seventh Circuit recognized that release may be appropriate where an immigration arrest violates § 1357(a)(2), but emphasized the need for an individualized determination that the arrest was unlawful. Here, upon information and belief, Petitioner was already secured by local law enforcement when ICE assumed custody, and ICE had no individualized basis to conclude that she was likely to escape before a warrant could be obtained.

9. Petitioner seeks a writ of habeas corpus as well as declaratory, and injunctive relief, ordering Respondents to cease detaining her under § 1225(b)(2)(A), to treat her custody under § 1226, and to provide immediate release or, at

minimum, a prompt bond hearing before an immigration judge under § 1226 and its implementing regulations. A detailed statement of facts and procedural history follows, supporting Petitioner's claims for relief.

## II. JURISDICTION

### A. <u>This Court Has Jurisdiction Under 28 U.S.C. § 2241 and § 1331</u>

10. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody and challenges the legal authority for her civil immigration detention.

11. This Court also has federal question jurisdiction under 28 U.S.C. § 1331 because Petitioner raises claims arising under the Constitution and laws of the United States.

12. In *Hernandez Alvarez*, the Eleventh Circuit reviewed § 2241 habeas petitions challenging detention under § 1225(b)(2)(A) and affirmed habeas relief where the district court concluded that § 1226 governed the petitioners' detention.

13. Petitioner challenges only the legal basis and procedures for her detention; she does not ask this Court to decide removability, terminate removal proceedings, or review any final order of removal.

14. Section 1252(f)(1) does not bar individualized relief for Petitioner. The Eleventh Circuit in *Hernandez Alvarez* affirmed habeas relief for two individual petitioners challenging their detention under § 1225(b)(2)(A).

15. To preserve this Court's habeas jurisdiction, Petitioner requests an order

prohibiting Respondents from transferring her outside the Middle District of Georgia or changing her immediate custodian while this case is pending.

## III. VENUE

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

## IV. PARTIES

17. Petitioner, A.M.H.G., is a 24-year-old noncitizen who has resided in the United States since her lawful parole into the country through a government-authorized CBP One process on or about October 14, 2022. Since her parole into the United States, Petitioner has complied with immigration requirements and has remained physically present with the knowledge and authorization of immigration authorities. Petitioner remains in ongoing removal proceedings and is pursuing immigration relief, including a pending Form I-589 Application for Asylum and Withholding of Removal.

18. Respondent Jason Streeval is the responsible Warden of Stewart Detention Center. As such, Respondent Streeval is responsible for the operation of the Detention Center where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Because ICE contracts with private and county-operated detention facilities to house immigration detainees, Respondent Streeval has immediate physical custody of the Petitioner and is sued in his official capacity.

19. Respondent Kristen Sullivan is the Field Office Director for the ICE Atlanta Field Office. As such, Respondent Sullivan is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Sullivan is being sued in her official capacity. She is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took place under her direction and supervision. She is the immediate *legal* custodian of Petitioner.

20. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Lyons is being sued in his official capacity.

21. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Mullin is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

22. Respondent Todd Blanche is the Attorney General of the United States and is sued in his official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as his designees at the Executive Office for Immigration Review (EOIR).

23. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA's waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody regulations, prevent

transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).[1]

## V. STATEMENT OF FACTS AND PROCEDURAL HISTORY

24. Petitioner, A.M.H.G., is a 24-year-old noncitizen who has resided in the United States since her lawful parole into the country through a government-authorized CBP One process on or about October 14, 2022, near Del Rio, Texas. Upon her entry, the Department of Homeland Security inspected and paroled Petitioner into the United States pursuant to INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A), under a DT class of admission. Since that time, Petitioner has remained physically present in the United States with the full knowledge and authorization of immigration authorities and has complied with all immigration requirements and proceedings. Petitioner remains in a period of stay authorized by the Attorney General and is currently pursuing protection-

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

based immigration relief through a pending Form I-589 Application for Asylum and Withholding of Removal.

25. Petitioner has no criminal convictions, no prior criminal history, no prior immigration violations, and no history of failing to appear before immigration authorities or any court proceedings. Since her parole into the United States, Petitioner has established substantial family and community ties in North Carolina. She resides with her United States citizen husband and their one-year-old United States citizen daughter. Prior to detention, Petitioner was the primary caregiver for her infant child and remained at home caring for her on a full-time basis. Petitioner additionally has extended family members residing in the area and significant community support.

26. Petitioner is also pursuing lawful immigration relief through her family relationship with her United States citizen spouse. Prior counsel previously filed a Form I-130 on Petitioner's behalf. Additionally, Petitioner is in the process of filing I-485, Adjustment of Status Application with USCIS. Petitioner therefore possesses viable forms of immigration relief and has every incentive to continue complying with all immigration proceedings and appearing before the Immigration Court.

27. On or about March 10, 2026, Petitioner and her husband became involved in a domestic dispute at their residence in Kernersville, North Carolina. Local law enforcement responded to the residence and both Petitioner and her husband were arrested. According to Petitioner's husband, officers informed

her that Petitioner wished to pursue charges against her while simultaneously informing Petitioner that her husband wished to pursue charges against her. Petitioner's husband did not wish to pursue charges against Petitioner and sought her release shortly after her own release from custody. He was informed that Petitioner would continue to be detained for an additional period of time despite his request.

28. Petitioner was charged with misdemeanor domestic violence/simple assault allegations arising from the incident. Those charges were subsequently Dismissed. Petitioner has never been convicted of any domestic violence offense and has no prior history of violent conduct.

29. Following her local arrest, ICE lodged an immigration detainer against Petitioner and assumed custody over her. Petitioner was briefly transferred through a detention facility in North Carolina before being transported to Stewart Detention Center in Lumpkin, Georgia, where she remains detained to date.

30. At no time during or immediately after her transfer into ICE custody was Petitioner provided with any meaningful explanation regarding the legal basis for her continued detention, any notice explaining whether her parole had been terminated, any statement of reasons supporting her custody classification, or any meaningful opportunity to contest her detention before a neutral decisionmaker. Upon information and belief, Respondents reclassified Petitioner as an "arriving alien" subject to detention under 8

U.S.C. § 1225(b), despite the fact that Petitioner had already been paroled into the United States years earlier and was arrested in the interior of the country after establishing substantial family and community ties.

31. By issuing or maintaining removal proceedings against Petitioner following her March 2026 arrest and continuing to detain her under the framework applicable to arriving aliens, Respondents effectively terminated or nullified Petitioner's parole and her authorized period of stay without providing advance written notice, any statement of reasons, or any pre-deprivation opportunity to challenge that determination before a neutral adjudicator.

32. Petitioner sought custody review before the Immigration Court. Bond was denied. Petitioner's upcoming Master Calendar Hearing is currently scheduled for June 2, 2026 at 1:00 PM before Immigration Judge George James Ward, Jr., via WebEx proceedings. *See* Exhibit 2 (EOIR case information).

33. Petitioner's continued detention has caused severe hardship to her United States citizen infant daughter, who has been deprived of her primary caregiver during a critical stage of development. Petitioner's detention has additionally imposed substantial emotional and financial strain upon her husband and family.

34. Petitioner also suffers ongoing medical and dietary complications related to a prior appendectomy. She experiences significant stomach pain and difficulty tolerating much of the food provided at Stewart Detention Center. Despite these conditions, Petitioner remains detained.

35. While in ICE custody, officers have repeatedly pressured Petitioner to sign self-deportation paperwork despite her pending immigration proceedings based on her marriage to a U.S. citizen, pending asylum application, and existing family-based immigration process. Petitioner remains detained at Stewart Detention Center under circumstances that violate the Constitution and laws of the United States.

36. Petitioner subsequently sought custody review before the Immigration Judge, but release was denied based on Respondents' position that Petitioner was subject to detention as an arriving alien under 8 U.S.C. § 1225(b), including reliance on *Matter of Q. Li* and *Matter of Yajure-Hurtado*. As a result, Petitioner was deprived of any meaningful opportunity for release despite her parole into the United States, lack of criminal history, substantial family ties, pending immigration relief, and the dismissal of the criminal allegations underlying her detention. Because Respondents continue to detain Petitioner under an unlawful statutory framework and in violation of due process, Petitioner seeks immediate release from custody, or alternatively, a constitutionally adequate custody determination under the proper statutory framework.

37. DHS is detaining Petitioner as if she were an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), even though she was not apprehended while seeking entry at the border or port of entry.

38. Petitioner was encountered in the interior of the United States years after entry, following a local law enforcement arrest.

39. Petitioner is not an arriving alien seeking lawful entry into the United States, and she was not taking any cognizable step to obtain admission when she was seized.

40. Under *Hernandez Alvarez*, that factual posture places Petitioner outside § 1225(b)(2)(A)'s no-bond detention regime.

41. Under *Hernandez Alvarez*, Petitioner's detention is governed by § 1226 unless another specific mandatory detention provision applies.

42. Upon information and belief, Petitioner is not subject to mandatory detention under § 1226(c), and DHS has not identified any criminal conviction, terrorism-related ground, or other statutory basis requiring mandatory detention.

## VI. EXHAUSTION OF REMEDIES

43. **No statutory exhaustion requirement applies to habeas cases.** Exhaustion is not required, or should be excused, because Petitioner presents a pure legal question controlled by binding Eleventh Circuit precedent: whether § 1225(b)(2)(A) authorizes her no-bond detention. In *Hernandez Alvarez*, the Eleventh Circuit resolved that issue on habeas review and affirmed relief for interior EWI petitioners detained under DHS's § 1225(b)(2)(A) theory. Any administrative bond request would be inadequate if DHS or EOIR treats Petitioner as categorically ineligible for bond under § 1225(b)(2)(A). To the extent Petitioner seeks procedural protections at any court-ordered § 1226(a)

bond hearing, exhaustion should also be excused because that issue presents a constitutional due process question not within the BIA's authority to finally resolve.

44. Petitioner has exhausted administrative remedies to the extent required by law, and Petitioner's only remedy is by way of this judicial action.

## VII. PETITIONER'S § 1182(d)(5)(A) PAROLE WAS UNLAWFULLY REVOKED; SHE IS NOT "SEEKING ADMISSION"

45. Under 8 U.S.C. § 1182(d)(5)(A), DHS is authorized, in its discretion, to "parole into the United States temporarily under such conditions as [it] may prescribe" any applicant for admission. DHS exercised that authority and allowed Petitioner to live and work in the community for a substantial period while her asylum application remained pending, subject to routine ICE check-ins and other parole conditions. Under these circumstances—where DHS has affirmatively conferred conditional liberty and permitted Petitioner to structure her life around it, subject to routine ICE check ins and other conditions, it thereby created a protected liberty interest. Therefore, Petitioner retains a protected liberty interest in remaining free from immigration detention that is cognizable under the Fifth Amendment's Due Process Clause.

46. There are only two categories of noncitizen lacking valid entry documents who are amenable to expedited removal: (1) certain individuals who are

"arriving in the United States," and (2) subject to the designation by the Secretary of Homeland Security, "certain other" noncitizens who have "not been admitted or paroled" into the United States, and who cannot establish two years continuous physical presence. 8 U.S.C. § 1225(b)(1)(A)(i), (A)(iii).

47. The statute does not define the term "arriving." *CHIRLA v. Noem*, --- F. Supp. 3d ---, 2025 WL 2192986, at *27 (D.D.C. Aug. 1, 2025). The plain language and historical context demonstrate, though, that "arriving" in § 1225(b)(1)(A)(i) refers to individuals in the process of coming into the United States at a port of entry. First, the ordinary meaning of "arriving" supports the conclusion that the noncitizen is in the process of reaching the United States. The dictionary definition of "arriving" includes "to reach a destination," "to make an appearance" and "to be near in time." Merriam-Webster Dictionary, available at https://www.merriam-webster.com/dictionary/arriving. Thus, "[r]ead according to its plain meaning, a noncitizen 'arriving' in the United States would be one who is in the process of reaching her or her destination (the United States) and making an appearance here." *CHIRLA*, 2025 WL 2192986, at *28. "Arriving in" would not, however "be read to refer to someone who previously reached the United States via port of entry, underwent inspection at that port of entry, and then was paroled into the United States[.]" Id. Additionally, the present-progressive tense connotes continuation, rendering "is arriving in the United States" a phrase referring to people actively in that process, which necessarily ends once the destination (the United States) is

reached. Consistent with that construction, other provisions of the INA use the term "'arrive,' or some conjugation thereof, to reference physical arrival at a port of entry." Id. (citing 8 U.S.C. §§ 1225(b)(1)(F), (b)(2)(C), (d)(2)); accord *Doe v. Noem*, 152 F.4th 272, 288 (1st Cir. 2025). Thus, the plain language of the statute is best read to mean that the "arriving in" provision only applies to noncitizens who are physically in the process of coming into the United States at a port of entry. *CHIRLA*, 2025 WL 2192986, at *27-29. Clearly, Petitioner was not "arriving in" the United States when ICE detained her but rather was apprehended in the interior more than two years after she already entered.

48. The regulations support this result. 8 C.F.R. § 235.3(b)(1)(i) provides that "arriving aliens, as defined in 8 C.F.R. § 1.2" are subject to expedited removal. Section 1.2 defines an "arriving alien" to include "an applicant for admission coming or attempting to come into the United States at a port-of-entry, or a [noncitizen] seeking transit through the United States at a port-of-entry," or a noncitizen interdicted at sea. The regulation continues: "An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, [8 U.S.C. § 1182(d)(5)] and even after any such parole is terminated or revoked." 8 C.F.R. § 1.2. This is because a parole is not an admission into the United States, it is instead temporary authorization to be present in the United States. 8 U.S.C. § 1182(d)(5)(A). Accordingly, a noncitizen is an arriving alien under the regulation while in the process of "coming or attempting to come into the United States," while paroled, or at the time such parole is terminated

or revoked. Id. At the point the parole ends and the government may process for admission or pursue available removal efforts. *CHIRLA*, 2025 WL 2192986, at *26 (discussing 8 C.F.R. § 212.5(e)(2)(i)).

49. The parole statute reinforces that result. The statute provides that a noncitizen "shall continue to be dealt with in the same manner as that of any other applicant for admission" when the parole ends. 8 U.S.C. § 1182(d)(5)(A). But "applicant for admission" is necessarily broader than § 1225(b)(1)'s application to a noncitizen who is "arriving in the United States." An applicant for admission is either an individual "present in the United States who has not been admitted or [an individual] who arrives in the United States." 8 U.S.C. § 1225(a)(1). Under this definition, a parolee is always an applicant for admission, including when they have parole status. So it makes sense that the government would "continue to" deal with a parolee's case like any other applicant for admission, as the operative fact-presence in the United States without admission-did not change from the time the noncitizen was allowed into the United States through the time the parole ended. But that does not mean Petitioner is always "arriving in" the United States. Once Petitioner was inspected and paroled into the United States, she was no longer arriving aliens and § 1225(b) could not apply to her.

50. Any argument that the parole froze Petitioner's "status" to that of an arriving alien forever, such that she remained as-if she was at the border, seemingly for perpetuity, even though she had been allowed to come into the United

States fails. This argument is grounded in the so-called "entry fiction" doctrine, under which a paroled noncitizen was considered in the same position as if they were still standing at the border. See *Ibragimov v. Gonzales*, 476 F.3d 125, 136-38 (2d Cir. 2007); *CHIRLA*, 2025 WL 2192986, at *23. The current statutory scheme does not support a conclusion that entry fiction should apply to render parolees amenable to expedited removal. See e.g., *American-Arab Anti-Discrimination Committee v. Ashcroft*, 272 F. Supp. 2d 650, 668 (E.D. Mich. 2003) (concluding that expedited removal cannot lawfully be applied to a noncitizen whose parole had expired or terminated under the theory that the noncitizen was an "arriving alien" despite having "resid[ed] in the interior of the United States for some time"). The parole statute does not provide a noncitizen with a specific status at the expiration of the parole, but DHS has no authority to detain such noncitizens under 8 U.S.C. 1225(b), since they are far removed from "seeking admission" or trying to enter the country.

51. Petitioner was inspected and paroled into the United States through a government-authorized process. She does not contend that parole was an admission. Rather, she contends that, when ICE arrested and detained her in the interior more than two years later, she was not then "seeking admission" within the meaning of § 1225(b)(2)(A).

## VIII. LEGAL AND STATUTORY FRAMEWORK

### A. Binding Eleventh Circuit precedent establishes that § 1225(b)(2)(A) does not govern Petitioner's detention

52. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, --- F.4th ----, 2026 WL 1243395 (11th Cir. 2026), the Eleventh Circuit rejected DHS's new interpretation of § 1225(b)(2)(A).

53. The Eleventh Circuit held that § 1225(b)(2)(A) limits no-bond detention to applicants for admission who are "seeking admission."

54. The Eleventh Circuit held that interior noncitizens who entered without inspection years earlier and were later arrested after domestic dispute were not "seeking admission" when detained.

55. The Eleventh Circuit further held that seeking relief from removal or contesting removal proceedings is not the same as seeking admission under § 1225(b)(2)(A).

56. Petitioner's case falls within *Hernandez Alvarez* because Petitioner was arrested in the interior after a domestic dispute and was not seeking lawful entry into the United States when seized.

57. Accordingly, DHS cannot lawfully deny Petitioner bond eligibility by classifying her as subject to mandatory detention under § 1225(b)(2)(A).

### B. Section 1226 governs Petitioner's custody unless DHS proves a specific mandatory-detention provision applies

58. In *Hernandez Alvarez*, the Eleventh Circuit explained that § 1226 provides the general detention framework for noncitizens present in the United States

pending removal proceedings.

59. The Eleventh Circuit also explained that § 1226(a) authorizes DHS either to continue detention or to release the noncitizen on bond or conditional parole, while § 1226(c) limits that discretion only for enumerated categories.

60. The Eleventh Circuit relied on *Jennings v. Rodriguez*, 583 U.S. 281 (2018), for the distinction between § 1225 detention of noncitizens seeking admission and § 1226 detention of noncitizens already present in the country.

61. The Eleventh Circuit also reasoned that DHS's reading would create serious redundancy with § 1226(c), including Congress's 2025 addition of § 1226(c)(1)(E) through the Laken Riley Act.

62. Petitioner is not alleged to fall within § 1226(c), so she must receive the custody process available under § 1226(a).

C. ***Castañon-Nava* confirms the same statutory reading**

63. In *Castañon-Nava v. U.S. Department of Homeland Security*, --- F.4th ----, 2026 WL 1223250 (7th Cir. 2026), the Seventh Circuit held that § 1225(b)(2)(A) applies to noncitizens seeking lawful entry at the border or ports of entry, not to noncitizens living in the interior.

64. The Seventh Circuit found that the text, statutory context, legislative history, and longstanding Executive practice supported that conclusion.

65. The Seventh Circuit also explained that Congress's 2025 amendment to § 1226(c) would be redundant if all interior EWI noncitizens were already subject to mandatory detention under § 1225(b)(2)(A).

66. Although *Castañon-Nava* is persuasive rather than binding in this Court, its reasoning accords with the now-binding rule of *Hernandez Alvarez*.

## IX. LEGAL FRAMEWORK FOR THE RELIEF SOUGHT

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

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

69. The Court must grant the petition for writ of habeas corpus or order Respondent to show cause "forthwith," unless the petitioner is not entitled

to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondent must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." Id.

70. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from her within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000).

## X. CAUSES OF ACTION AND CLAIMS FOR RELIEF

### COUNT ONE
### Unlawful Detention Under the INA and 28 U.S.C. § 2241

71. Respondents are detaining Petitioner under § 1225(b)(2)(A) even though she was arrested in the interior years after entry and was not seeking lawful entry when seized.

72. In *Hernandez Alvarez*, the Eleventh Circuit held that § 1225(b)(2)(A) does not authorize no-bond detention of similarly situated interior EWI petitioners who were not seeking admission when arrested.

73. Respondents' continued classification of Petitioner as subject to § 1225(b)(2)(A) is contrary to binding Eleventh Circuit law.

74. Petitioner's detention must instead proceed, if at all, under § 1226(a).

75. Petitioner is entitled to habeas relief requiring Respondents to cease detaining her under § 1225(b)(2)(A) and to provide release or a prompt custody hearing under § 1226(a) where the government bears the burden by clear and convincing evidence.

**COUNT TWO**
**Unlawful Revocation of Petitioner's Parole in Violation of Due Process**

76. Petitioner was inspected and paroled into the United States through a government-authorized process under 8 U.S.C. § 1182(d)(5)(A). Petitioner does not contend that parole constitutes an admission. Rather, Petitioner contends that DHS conferred conditional liberty by allowing her to reside in the United States subject to immigration supervision, and that Respondents later revoked, nullified, or effectively terminated that liberty by taking her back into physical custody without constitutionally adequate process.

77. Under 8 C.F.R. § 212.5(e)(2)(i), parole may be terminated when the authorized DHS official determines that neither humanitarian reasons nor public benefit warrant continued parole, and the regulation contemplates written notice restoring the noncitizen to the status held at the time of parole.

78. Respondents effectively terminated or nullified Petitioner's parole by taking her into ICE custody and treating her as subject to mandatory detention under 8 U.S.C. § 1225(b), without providing advance written notice, a statement of

reasons, or a meaningful opportunity to contest the loss of liberty before a neutral decisionmaker.

79. Petitioner has a substantial liberty interest in remaining free from physical detention after DHS previously permitted her to reside in the community subject to parole conditions. That interest is particularly weighty where Petitioner has complied with immigration requirements, has no criminal convictions, has substantial family and community ties, and is pursuing pending immigration relief.

80. The risk of erroneous deprivation is substantial because Respondents have re-detained Petitioner based on a categorical custody classification rather than an individualized finding that she presents a danger to the community or a risk of flight.

81. Additional procedural safeguards would substantially reduce that risk. At minimum, Respondents should be required to provide written notice of the factual and legal basis for parole termination or re-detention and a prompt custody determination before a neutral decisionmaker.

82. The government has no legitimate interest in re-detaining Petitioner without a meaningful custody process where individualized conditions of release could address any demonstrated concerns regarding appearance or public safety.

83. Under the *Mathews v. Eldridge* balancing framework, Petitioner's private liberty interest, the risk of erroneous deprivation, and the limited

administrative burden of providing notice and a prompt custody determination weigh in favor of due-process protection before or immediately upon re-detention.

84. Respondents' revocation, nullification, or effective termination of Petitioner's parole, followed by physical detention without adequate notice and a meaningful custody process, violates the procedural component of the Fifth Amendment's Due Process Clause.

85. Petitioner is entitled to declaratory and injunctive relief prohibiting Respondents from continuing to detain her based on an unlawful parole revocation or categorical custody classification.

86. Petitioner is further entitled to immediate release or, at minimum, a prompt constitutionally adequate custody hearing at which the government must justify continued detention based on individualized evidence of danger or flight risk.

87. As *Morrissey v. Brewer*, 408 U.S. 471 (1972), and *Gagnon v. Scarpelli*, 411 U.S. 778 (1973), recognize, individuals living at liberty on parole or probation enjoy a significant "conditional" liberty interest and may not be re-incarcerated without basic procedural safeguards, including notice, an opportunity to be heard, and a neutral decisionmaker. Courts have applied the same logic in the immigration context, holding that noncitizens who have been released from detention on bond or parole and allowed to live and work in the community cannot be summarily re-detained without a pre-deprivation hearing.

88. In *Aviles-Mena v. Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215, at *3, *5 (N.D. Cal. Sept. 5, 2025), the court emphasized that "even individuals who face significant constraints on their liberty or over whose liberty the government wields significant discretion retain a protected interest in their liberty," and treated immigration parole under 8 U.S.C. § 1182(d)(5)(A) as a form of conditional liberty analogous to criminal parole or probation for purposes of the *Mathews v. Eldridge* due-process analysis.

89. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the "specific dictates of due process" are evaluated by considering: (1) the private interest affected; (2) the risk of erroneous deprivation and the value of additional safeguards; and (3) the government's interests and the burdens of additional procedures.

90. First, Petitioner's private interest in remaining out of custody is weighty. She has been lawfully paroled into the United States under § 1182(d)(5)(A), and complied with all immigration requirements. As *Aviles-Mena* recognized, where DHS has already found a parolee suitable for release and allowed her to live and work in the United States for years, the liberty interest in continued freedom from detention is substantial. *Aviles-Mena v. Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215 (N.D. Cal., Sep. 5, 2025).

91. Second, the risk of an erroneous deprivation of that liberty is high under Respondents' current practice. By definition, DHS's prior decision to grant Petitioner parole and permit her continued residence in the community reflected a determination, under § 1182(d)(5)(A) and 8 C.F.R. § 212.5, that she

was not a danger or flight risk. Respondents have identified no materially changed circumstances—no new criminal conduct, no violation of parole conditions, no failure to appear—that would justify re-detention. A brief pre-deprivation custody hearing before a neutral adjudicator, at which the government bears the burden to show that termination of parole and re-detention are necessary to prevent flight or danger, would substantially reduce the risk that Petitioner is re-incarcerated for reasons unrelated to any valid statutory purpose.

92. Third, the government's interest in re-detaining Petitioner without any pre-deprivation hearing is minimal. Providing advance written notice and a prompt individualized custody hearing would not diminish DHS's ability to effect removal or protect the public; it would simply require the agency to articulate and substantiate the basis for revoking parole and returning Petitioner to custody, and to do so before rather than after the deprivation occurs. The automatic termination of parole does not grant the government unrestricted authority to re-detain a noncitizen where no valid statutory purpose is served. Civil immigration detention must be nonpunitive and bear a reasonable relation to statutory purposes, such as preventing flight or danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Given Petitioner's demonstrated lack of flight risk or danger and the absence of any changed circumstances justifying re-detention, the government's actions appear arbitrary and lack a legitimate non-punitive purpose.

93. As *Aviles-Mena* held on materially similar facts, the incremental administrative burden of a brief pre-deprivation hearing is slight compared to the severe deprivation of liberty imposed by renewed civil detention.

94. Balancing the *Mathews* factors, Respondents' revocation of Petitioner's parole and her detention without advance notice and a pre-deprivation hearing before a neutral decisionmaker violate the procedural component of the Fifth Amendment's Due Process Clause. See *Aviles-Mena v. Kaiser*, Case No. 25-cv-06783-RFL, 2025 WL 2578215, at *5–7 (N.D. Cal. Sept. 5, 2025) (enjoining ICE from re-detaining a long-paroled asylum seeker "without notice and a pre-deprivation hearing before a neutral decisionmaker").

95. Petitioner is therefore entitled to declaratory and injunctive relief prohibiting Respondents from terminating her parole or re-detaining her in ICE custody absent: (a) advance written notice of the proposed termination and the factual basis for re-detention; and (b) a prompt pre-deprivation custody hearing before a neutral decisionmaker at which the government bears the burden to demonstrate that revocation of parole and detention are necessary to serve legitimate, nonpunitive statutory purposes.

## COUNT THREE
## Violation of the Fifth Amendment — Categorical No-Bond Detention Without Due Process

96. The Fifth Amendment protects noncitizens within the United States from deprivation of liberty without due process of law.

97. Physical detention implicates a fundamental liberty interest because freedom from government custody lies at the core of the liberty protected by the Due Process Clause.

98. Respondents have deprived Petitioner of liberty by treating her as categorically subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), even though she was apprehended in the interior of the United States years after parole and was not then seeking lawful entry at a border, port of entry, or inspection point.

99. Respondents may contend that 8 C.F.R. § 1003.19(h)(2)(i)(B) bars Immigration Judge bond review because Petitioner was paroled after arrival. But that regulation cannot supply mandatory detention authority where the governing statute does not. Petitioner challenges Respondents' threshold statutory classification and the resulting denial of any meaningful custody process; she does not ask this Court to review a discretionary bond determination.

100. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, --- F.4th ----, 2026 WL 1243395 (11th Cir. 2026), the Eleventh Circuit held that § 1225(b)(2)(A) does not authorize mandatory no-bond detention for similarly situated interior noncitizens who were not seeking admission when apprehended.

101. Because § 1225(b)(2)(A) does not govern Petitioner's detention, Respondents may not deny her any individualized custody determination on that basis.

102. Any continued detention must be justified, if at all, under the proper statutory framework and through constitutionally adequate procedures that assess Petitioner's individualized risk of flight and danger to the community.

103. Petitioner is therefore entitled to immediate release or, in the alternative, a prompt constitutionally adequate custody hearing under the proper statutory framework.

**Liberty Interest Created by Parole**

104. Petitioner's claim arises at the intersection of the Fifth Amendment and the government's discretionary parole authority under 8 U.S.C. § 1182(d)(5)(A), which permits DHS to "parole into the United States temporarily under such conditions as [it] may prescribe" noncitizens applying for admission. Implementing regulations confirm that such parole is a grant of conditional freedom: DHS may parole individuals only where they present neither a security risk nor a risk of absconding, and provides that parole terminates either automatically upon expiration or, "when in the opinion" of the authorized official humanitarian reasons or public benefit no longer warrant continued presence, by written notice restoring the person "to the status that she or she had at the time of parole." 8 C.F.R. § 212.5(b), (e)(2)(i).

105. Although § 1182(d)(5)(A) does not itself create a substantive entitlement to be granted or to retain parole, because the statute commits the parole decision to the Attorney General's discretion, *Kwai Fun Wong v. United States*, 373 F.3d 952, 971–72 (9th Cir. 2004), courts have repeatedly held that once the

government has actually exercised that discretion to release a noncitizen into the community, the resulting conditional freedom gives rise to a protected liberty interest in remaining free from immigration detention. In *Aviles-Mena v. Kaiser*, the court held that a noncitizen paroled under § 1182(d)(5)(A) who had been "lawfully living and working in the United States" for years possessed a "substantial private interest in remaining out of custody once she has been granted parole and has spent a significant time lawfully and freely residing in the United States," and therefore retained a liberty interest that had to be evaluated under *Mathews v. Eldridge* before detention.

106. Parallel decisions hold that a DACA recipient must be provided with due process before their DACA is terminated. See *Inland Empire - Immigrant Youth Collective v. Nielsen*, No. 17-cv-2048, 2018 WL 4998230, at *19 (C.D. Cal. Apr. 19, 2018); *Medina v. U.S. Dep't of Homeland Sec.*, No. 17-cv-218, 2017 WL 5176720, at *9 (W.D. Wash. Nov. 8, 2017); *DHS v. Regents of the University of California*, 591 U.S. 1 (2020). Although DACA is a discretionary benefit, not an entitlement, once DACA is conferred, a recipient has a protected property interest in retaining that benefit. See *Inland Empire*, 2018 WL 4998230, at *19. A core benefit of DACA is that it allows recipients to live, study, and work in the United States without fear of arrest or deportation. It would be incongruous to find that DACA recipients acquire a constitutionally protected interest in their DACA benefit, but not one of its essential facets: their liberty.

107. This position also finds support in the longstanding principle in the criminal context that due process requires a pre-deprivation hearing before the revocation of parole. See *Espinoza v. Kaiser*, 2025 WL 2581185, at *9 (citing *Young v. Harper*, 520 U.S. 143, 147–49 (1997)). "The parolee has relied on at least an implicit promise that parole will be revoked only if she fails to live up to the parole conditions." Id. (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). Parolees thus have a protected liberty interest in their "continued liberty." Id. (citation omitted). A number of district courts have extended this reasoning to the immigration context and held that once released from immigration custody, noncitizens acquire "a protectable liberty interest in remaining out of custody on bond." *Diaz v. Kaiser*, No. 25-cv-5071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025) (collecting cases); accord *M.S.L.*, 2025 WL 2430267, at *8 ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond." (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025) (same). Likewise, *Aviles-Mena* emphasized that "even individuals who face significant constraints on their liberty or over whose liberty the government wields significant discretion retain a protected interest in their liberty," and treated immigration parole as a form of conditional liberty analogous to criminal parole or probation for purposes of due process analysis.

108. Accordingly, where DHS has paroled a noncitizen under § 1182(d)(5)(A), allowed that person to live and work in the community subject to reporting and other conditions, and later seeks to terminate parole and re-detain her, due process protects her liberty interest in remaining free from physical custody. Petitioner does not claim a statutory right to parole itself; rather, she invokes the Fifth Amendment liberty interest that arises once the government has conferred conditional freedom and now seeks to revoke it by returning her to immigration detention.

109. **Substantive Due Process:** The detention is substantively unconstitutional because it is arbitrary and serves no legitimate, non-punitive purpose. Civil immigration detention is permissible only to prevent flight or danger to the community. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 846 (2018). As established, Petitioner is neither a flight risk nor a danger. Petitioner's mandatory detention, without any individualized assessment, bears no reasonable relation to any legitimate government purpose and is therefore arbitrary deprivation of liberty, excessive, and unconstitutional.

110. **Procedural Due Process:** Even if a legitimate purpose for detention existed, the procedures used to effectuate it are constitutionally rotten. Due process demands a "meaningful opportunity to be heard at a meaningful time and in a meaningful manner" before a neutral decision-maker. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). The current scheme—whereby Respondents unilaterally subject Petitioner to mandatory

detention based on an unlawful policy—entirely lacks these fundamental safeguards and fails the three-part balancing test set forth in *Mathews*:

111. **The Private Interest**: Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail determination, is "without question, a weighty one." *Landon v. Plasencia*. Petitioner is being held in jail in the same conditions as criminal inmates, unable to work and is far from family. At minimum, the government must come forward with concrete, case-specific reasons that outweigh Petitioner's substantial liberty interest in continued release.

112. **The risk of erroneous deprivation** of liberty is extreme. The system lacks any neutral adjudicator, as ICE is acting as both prosecutor and judge, a structural defect that creates a constitutionally intolerable risk of wrongful deprivation, as highlighted in *Marcello v. Bonds*, 349 U.S. 302, 305-306 (1955). Respondents are effectuating prolonged detention based on their own self-serving interpretation of the law, with no check on their power. This risk is exacerbated by the coordinated actions of both DHS and EOIR, which operate under a unified approach that effectively denies bond to noncitizens in Petitioner's situation, thereby unilaterally depriving them of their liberty.

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

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

## XI. REMEDY

### IMMEDIATE RELEASE IS THE APPROPRIATE PRIMARY REMEDY

115. When a person's liberty is taken without any lawful authority, the only effective and constitutionally sufficient remedy is to restore that liberty immediately and unconditionally. A subsequent bond hearing cannot cure a detention that was void from its inception (*ab initio*). Federal courts possess broad equitable power under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering immediate release when the government's custody is illegal. *See Hilton v. Braunskill*, 481 U.S. 770, 775

(1987); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Here, law and justice demand nothing less than Petitioner's release, as her detention unsupported by lawful statutory authority.

116. Petitioner's detention is unlawful at its core because the arrest itself was conducted without satisfying the INA's statutory requirements . Whether viewed as an arrest under 8 U.S.C. § 1225 or 8 U.S.C. § 1226(a), the seizure was illegal. Respondents claim authority under § 1225, but that statute applies to arriving aliens at the border, not long-term interior residents like Petitioner. The correct statute for an interior apprehension, § 1226(a), unequivocally requires that an arrest be made **"[o]n a warrant**." Respondents had no such warrant.

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

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

119. Furthermore, should this Court nonetheless order a bond hearing as an alternative to immediate release, it is critical that the order contain specific procedural safeguards to make that remedy meaningful. There is a troubling trend of immigration judges denying bond after a habeas grant based on rote assertions of flight risk or danger, often without the government presenting any actual evidence. To counteract this and ensure Petitioner is afforded a constitutionally adequate hearing so we do not have to return to this Court, this Court should follow the sound reasoning of another court in this District and place the burden of proof squarely on the government. In J.G. *v. Warden, Irwin Cty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga 2020), the court, observing that "Circuit courts considering the standard of proof in the immigration bond context have also adopted the clear and convincing

standard," held that "the government must prove by clear and convincing evidence that an alien is a flight risk . . . to justify denial of bond." **Therefore, to prevent a constitutionally inadequate hearing that would only prolong Petitioner's unlawful detention, any order for a bond hearing must explicitly direct that the government bears the burden of establishing by clear and convincing evidence that Petitioner's detention is necessary**.

120. Finally, to ensure the remedy of release is not rendered illusory, the Court must explicitly order that any release conditions must be individualized, reasonably related to a demonstrated risk of flight or danger, and not imposed categorically as a substitute for unlawful detention.

## XII. CONCLUSION AND PRAYER FOR RELIEF

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

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

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

(2) **In the alternative**, should the Court decline to order immediate unconditional release, issue an order directing Respondents to provide Petitioner with a bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a) and its implementing regulations at 8 C.F.R. §§ 236.1 and 1236.1 within forty-eight (48) hours of the Court's order, and further specifying that at any such hearing: (a) the **government bears the burden** of proving that Petitioner is either a flight risk or a danger to the community; and (b) the government must satisfy that burden by **clear and convincing evidence**, consistent with *J.G. v. Warden, Irwin Cty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020), which followed circuit precedent adopting this standard in the immigration bond context (including *Singh* and *Lopez*), in

order to prevent the recurring problem of perfunctory bond denials based on unsupported assertions of risk rather than actual evidence;

(3) **Enjoining Respondents**, upon Petitioner's release, from subjecting Petitioner to any form of electronic monitoring, GPS ankle bracelet, ISAP enrollment, or other alternative-to-detention program that functions as a custody-like restraint, absent prior leave of this Court. Respondents shall be prohibited from imposing such conditions unless, at least five (5) days in advance, they file notice with this Court and demonstrate—based on a new, particularized assessment of significantly changed circumstances and a concrete, evidence-based showing of flight risk or danger—that such conditions are necessary, and the Court expressly authorizes them pursuant to its authority under 28 U.S.C. § 2243 to dispose of the matter as law and justice require.

(4) **Issue an Order to Show Cause** directing Respondents to file a return within three (3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;

(5) **ENJOIN** Respondents from re-detaining Petitioner in the future under 8 U.S.C. § 1225 or the DHS policy vacated by the *Maldonado Bautista* court;

(6) **REINSTATE** Petitioner's parole unlawfully revoked and **ENJOIN** Respondents from terminating Petitioner's parole or re-detaining her in ICE custody (including for purposes of executing any removal order) without: (a) advance written notice of the proposed parole termination and the factual basis for re-detention; and (b) a prompt, pre-deprivation custody hearing

before a neutral decisionmaker, at which the government bears the burden to demonstrate that termination of parole and detention are necessary to serve a legitimate regulatory purpose, as required by the Fifth Amendment's Due Process Clause and consistent with *Aviles-Mena v. Kaiser*, 2025 WL 2578215 (N.D. Cal. Sept. 5, 2025).

(7) **Award** Petitioner reasonable attorney's fees and costs; and

(8) **Grant** such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 15th day of May, 2026.

*/s/ Karen Weinstock*
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**28 U.S.C. § 2242 VERIFICATION STATEMENT**

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

This 15th day of May, 2026.

*/s/ Karen Weinstock*
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