UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

Jenny Karina Diaz Villalobo,

Petitioner,

v.

TODD M. LYONS, ACTING DIRECTOR OF U.S. ICE, MIGUEL VERGARA, SAN ANTONIO FIELD OFFICE DIRECTOR, Immigration and Customs Enforcement; Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Todd BLANCHE, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; South Texas Detention Facility, Pearsall, TX, The Warden of South Texas Detention Facility, Pearsall, TX,

Respondents.

Case No. 5:26-cv-3390

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Jenny Karina Diaz Villalobo (A# [redacted]) is in the physical custody of ICE at the South Texas Detention Facility. She now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

6. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

7. Petitioner entered the United States on or about May 2007, near the Texas border without inspection.

8. Petitioner is prima facie eligible for relief in the form of asylum, withholding of removal, and protection under the Convention Against Torture. Federal courts have recognized that noncitizens pursuing bona fide claims for relief—particularly those involving fear of persecution or torture—possess a substantial liberty interest in freedom from civil detention. In *Escobar-Arauz v. Noem*, No. EP-25-CV-00619-DB (W.D. Tex. Dec. 10, 2025), the court held that a noncitizen with significant ties and equities possessed "a strong liberty interest in his freedom from detention." Idl at 2.8. Similarly, in *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025); *Sanchez Alvarez v. Noem*, No. 25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025); and *Chogllo Chafla v. Scott*, Nos. 25-CV-437, 438, 439, 2025 WL 2688541 (D. Me. Sept. 22, 2025), courts recognized that individuals with viable claims for relief and substantial equities in the United States possess a cognizable liberty interest warranting meaningful procedural protections before continued detention. This interest is particularly compelling where, as here, Petitioner faces a credible risk of persecution or torture if removed and requires a meaningful opportunity to prepare and present her claims.

9. Petitioner is actively investigating multiple forms of immigration relief that may materially affect her removability and detention posture. Specifically, Petitioner may be eligible

for protection under the Violence Against Women Act ("VAWA") based on domestic violence suffered at the hands of a former intimate partner, as well as potential U nonimmigrant status ("U visa") relief as a victim of qualifying criminal activity who has suffered substantial abuse. At this stage, counsel continues to investigate the factual circumstances surrounding the abuse, any related law enforcement involvement, and the availability of supporting evidence.

10. Although the investigation remains ongoing, Petitioner's potential eligibility for victim-based humanitarian relief is sufficient to demonstrate that her immigration case is neither frivolous nor foreclosed. Courts have repeatedly recognized that detainees pursuing bona fide forms of immigration relief possess significant liberty interests warranting meaningful custody review, particularly where detention becomes prolonged.

11. Petitioner also fears returning to her country of origin due to traumatic events she witnessed involving violent criminal activity and her fear of retaliation stemming from those events. While counsel acknowledges that additional factual development is necessary regarding the viability of asylum-related claims, Petitioner continues to assert fear-based protection concerns that remain under active investigation by counsel.

12. Moreover, recent federal litigation has reinforced protections for individuals pursuing humanitarian relief such as VAWA self-petitions and U visas. In *ICWC v. Noem*, the United States District Court preliminarily certified nationwide classes and stayed policies facilitating the detention and removal of individuals with pending VAWA, U visa, and T visa matters. The court specifically recognized the significant interests implicated for noncitizens pursuing victim-based humanitarian protections and ordered DHS to halt implementation of policies that undermined those protections. A copy of the order is attached as Exhibit B.

13. Additionally, Petitioner is a putative member of the Bautista Class Action. Respondent entered without inspection on May, 2007. Therefore, Petitioner satisfies the first prong of the Bautista Class. (See Exhibit A, Bautista Order, February 18, 2026.) Petitioner was not apprehended upon arrival; therefore, Respondent satisfies the second prong of the Bautista Class. Id. Finally, Respondent has not committed any crimes subject to 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231, and thus satisfies the third prong of the Bautista Class. Id. Petitioner is therefore eligible for a bond redetermination hearing before this Court. Id

14. Accordingly, Petitioner seeks a writ of habeas corpus requiring that He be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

15. Petitioner is in the physical custody of Defendants. Petitioner is detained at the South Texas Detention Facility, Pearsall, TX.

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

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

VENUE

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

19. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a

substantial part of the events or omissions giving rise to the claims occurred in the WESTERN DISTRICT OF TEXAS.

REQUIREMENTS OF 28 U.S.C. § 2243

20. The Court must grant the petition for writ of habeas corpus or order Respondents 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, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

21. 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 him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

22. Petitioner Jenny Karina Diaz Villalobo is a citizen of Honduras who has been in immigration detention since May 5, 2026. ICE subsequently declined to set bond, and Petitioner is unable to obtain review of his custody before an Immigration Judge pursuant to the Board's decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

23. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

24. Respondent MIGUEL VERGARA, is the Director of the San Antonio Field Office of ICE's Enforcement and Removal Operations division. As such, MIGUEL VERGARA is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

25. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in her official capacity.

26. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

27. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

28. Respondent 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.

29. The unnamed Respondent, The Warden of the South Texas ICE Processing Center, where Petitioner is detained. They have immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

30. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The "Great Writ" has been referred to by United States Courts as "perhaps the most important writ known to the constitutional law of England, 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). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 2241(c)(3). The writ should be granted if petitioner can show that their detention is unlawful by a preponderance of evidence. Aguilar v. Bondi, No. 5:25-CV-01453-JKP, 2025 WL 3471417, at *2 (W.D. Tex. Nov. 26, 2025) (citing Bruce v. Estelle, 536 F.2d 1051, 1058 (5th Cir. 1976)).

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

32. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. Scott v. Stephens, No. 1:21-CV-620, 2023 WL 5945600, at *3 (E.D. Tex. Aug. 23, 2023), report and recommendation adopted, No. 1:21-CV-620, 2023 WL 5943127 (E.D. Tex. Sept. 11, 2023).

33. Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. Fernandez v. Dickey, No. CV 4:25-6088, 2026 WL 74184, at *1 (S.D. Tex. Jan. 9, 2026).

34. In Petgrave v. Aleman, 529 F. Supp. 3d 665, 672 n.14 (S.D. Tex. 2021), the court held that exhaustion is not required where an appeal timeline would exacerbate petitioner's

alleged injury of prolonged detention. See also Lopez-Arevelo .v Ripa, 801 F. Supp. 3d 688, 680 (W.D. Tex. 2025).

35. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

36. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

37. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

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

39. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

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

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

42. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

43. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

44. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

45. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

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[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

46. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

47. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

48. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-

02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

49. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

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

51. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress

creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

52. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

53. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

54. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

FACTS

55. Petitioner has resided in the United States since 2007, and her last residence is [redacted]

56. On May 5, 2026, Petitioner was arrested in Austin, TX. Petitioner is now detained at the South Texas ICE Processing Center.

57. DHS placed Petitioner in removal proceedings before the PEARSALL IMMIGRATION COURT pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

58. Petitioner entered the United States on or about May 2007 near the Texas border, without inspection.

59. Petitioner is prima facie eligible for relief in the form of asylum, withholding of removal, and protection under the Convention Against Torture. Federal courts have recognized that noncitizens pursuing bona fide claims for relief—particularly those involving fear of persecution or torture—possess a substantial liberty interest in freedom from civil detention. In *Escobar-Arauz v. Noem*, No. EP-25-CV-00619-DB (W.D. Tex. Dec. 10, 2025), the court held that a noncitizen with significant ties and equities possessed "a strong liberty interest in his freedom from detention." Idl at 2.8. Similarly, in *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025); *Sanchez Alvarez v. Noem*, No. 25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025); and *Chogllo Chafla v. Scott*, Nos. 25-CV-437, 438, 439, 2025 WL 2688541 (D. Me. Sept. 22, 2025), courts recognized that individuals with viable claims for relief and substantial equities in the United States possess a cognizable liberty interest warranting meaningful procedural protections before continued detention. This interest is particularly compelling where, as here, Petitioner faces a credible risk of persecution or torture if removed and requires a meaningful opportunity to prepare and present her claims.

60. Petitioner is actively investigating multiple forms of immigration relief that may materially affect her removability and detention posture. Specifically, Petitioner may be eligible for protection under the Violence Against Women Act ("VAWA") based on domestic violence

suffered at the hands of a former intimate partner, as well as potential U nonimmigrant status ("U visa") relief as a victim of qualifying criminal activity who has suffered substantial abuse. At this stage, counsel continues to investigate the factual circumstances surrounding the abuse, any related law enforcement involvement, and the availability of supporting evidence.

61. Although the investigation remains ongoing, Petitioner's potential eligibility for victim-based humanitarian relief is sufficient to demonstrate that her immigration case is neither frivolous nor foreclosed. Courts have repeatedly recognized that detainees pursuing bona fide forms of immigration relief possess significant liberty interests warranting meaningful custody review, particularly where detention becomes prolonged.

62. Petitioner also fears returning to her country of origin due to traumatic events she witnessed involving violent criminal activity and her fear of retaliation stemming from those events. While counsel acknowledges that additional factual development is necessary regarding the viability of asylum-related claims, Petitioner continues to assert fear-based protection concerns that remain under active investigation by counsel.

63. Moreover, recent federal litigation has reinforced protections for individuals pursuing humanitarian relief such as VAWA self-petitions and U visas. In *ICWC v. Noem*, the United States District Court preliminarily certified nationwide classes and stayed policies facilitating the detention and removal of individuals with pending VAWA, U visa, and T visa matters. The court specifically recognized the significant interests implicated for noncitizens pursuing victim-based humanitarian protections and ordered DHS to halt implementation of policies that undermined those protections. A copy of the order is attached as Exhibit B.

64. Following Petitioner's arrest and transfer to South Texas ICE Processing Center, Pearsall, TX, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

65. As a result, Petitioner remains in detention. Without relief from this court, she faces the prospect of months, or even years, in immigration custody, separated from her family and community.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

66. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

67. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

68. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of the Bond Regulations

69. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

70. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

71. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

72. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Due Process

73. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

74. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

75. Petitioner has a fundamental interest in liberty and being free from official restraint.

> ""As to the private interest affected, the Supreme Court has observed that freedom from physical detention is "the most elemental of liberty interests." Hamdi v Rumsfeld, 542 U.S. 507, 529 (2004). And so, other

courts considering challenge of §1003.19(i)(2) as applied in similar circumstances have considered whether the detainee is held in conditions that are indistinguishable from criminal incarceration. Martinez, 2025 WL 2598379 at *2, citing Gunyadin v Trump, 784 F.Supp.3d 1175, 1187 (D Minn 2025). This is because the private interest when asserted in such context is without question significant."

-Arcos v. Noem, Civil Action 4:25-cv-04599 (S.D. Tex. Oct 08, 2025)

Petitioner has a cognizable protectable liberty interest in her freedom from detention. Lopez-Arevelo v. Ripa, 801 F. Supp. 3d 668, 686 (W.D. Tex. 2025) (holding noncitizens in mandatory detention without a bond hearing constitutes a due process violation); 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).

76. Federal courts use the three-part test in Matthews v. Eldridge to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. Id. at 335.

77. Here, all three factors favor the petitioner.

78. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." Hamdi v. Rumsfeld, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also Zadvydas, 533 U.S. at 690, 121 S.Ct. 2491 ("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."). Petitioner currently experiences the gambit of deprivations that come with physical detention.

79. Second, Petitioner will continue to be deprived of this interest if the current procedure (detaining Petitioner without a hearing) is followed. Petitioner has a strong likelihood of meeting the criteria for being released on bond. 8 CFR §§236.1(c)(8), 1236.1(c)(8) (2020); In re Adeniji, 22 I. & N. Dec. 1102, 1113 (BIA 1999). Even if Petitioner is not subsequently released, Petitioner still has a legal and constitutional interest in the hearing itself, in being heard.

80. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or holding a hearing to release Petitioner on bond, would in fact save the government the resources and expense of continuing to imprison Petitioner.

81. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

COUNT IV
Petitioner is a Putative Member of The Bautista Class Action

82. Petitioner is a putative member of the Bautista Class Action. Respondent entered without inspection in 2007. Therefore, Respondent satisfies the first prong of the Bautista Class.

(See Exhibit A, Bautista Order, February 18, 2026.) Respondent was not apprehended upon arrival in 2007. Therefore, Respondent satisfies the second prong of the Bautista Class. Id. Finally, Respondent has not committed any crimes subject to 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231, and thus satisfies the third prong of the Bautista Class. Id. Respondent is therefore eligible for a bond redetermination hearing before this Court. Id

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment, the INA, and implementing regulations;

c. Issue an Emergency Temporary Restraining Order that Petitioner shall not be transferred outside the WESTERN DISTRICT OF TEXAS while this habeas petition is pending;

d. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 USC § 2243;

e. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide a bond hearing under 8 U.S.C. § 1226(a) within five days, at which hearing Respondents will bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of dangerousness or flight risk;

f. Declare that Petitioner's detention is unlawful;

g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

h. Grant any other and further relief that this Court deems just and proper.

DATED this May 26, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because his current detention makes her unable to submit one on her own behalf. On information and belief, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant, the undersigned certifies and states that the true and correct copies of this Petition for Writ of Habeas Corpus will be served upon all counsels of record via the online CM/ECF system, on or before 05/26/26.

/s/ Stephen Ramirez
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