UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLOMBUS DIVISION

YEREINY GABRIELA PINI AMADOR, Petitioner, v. **JASON STREEVAL**, Warden, Stewart Detention Center; **GEORGE STERLING**, Director of the Atlanta Field Office, U.S. Immigration and Customs Enforcement, **MARKWAYNE MULLIN**, Secretary of the U.S. Department of Homeland Security; **TODD WALLACE BLANCHE**, Acting Attorney General of the United States, U.S. Department of Justice, in their official capacities, Respondents.	Case No. ________________ **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Yereiny Gabriela Pini Amador ("Ms. Pini Amador") fears for her life in Venezuela. She experienced significant violence in her home country.

2. Ms. Pini Amador was apprehended upon arrival but was released with a Notice to Appear ("NTA") in Immigration Court. She has not missed a court date since her arrival.

3. Ms. Pini Amador was the victim of assault and domestic violence but was wrongfully accused and arrested for those charges. Upon further investigation, law enforcement confirmed she was the victim and not the aggressor. Charges were dismissed against her.

4. Nonetheless, the arrest and subsequent ICE hold placed her in ICE custody at Stewart Detention Center in Lumpkin, Georgia despite credible fear to return to her home country

of Venezuela. Immigration and Customs Enforcement (ICE) and the Department of Homeland Security (DHS) refuses to release Ms. Pini Amador, claiming that they have the sole authority to bond or parole detainees, and do not intend on releasing detainees on bond or parole, making release unforeseeable. Ms. Pini Amador's continued detention is arbitrary and unlawful, and she requests that this Court order her immediate release from ICE custody. Accordingly, to vindicate Petitioner's constitutional and statutory rights, this Court should grant the instant petition for a writ of habeas corpus.

5. Ms. Pini Amador is detained pursuant to an inapposite law 8 U.S.C. § 1225(b)(2)(A). Absent an order from this Court, Petitioner will be unjustly detained in violation of her constitutionally protected Due Process rights and the Immigration and Nationality Act under 8 U.S.C. § 1226(a).

6. Petitioner asks this Court to find that Respondents' attempts to detain and deport Ms. Pini Amador without the opportunity for bond are arbitrary and capricious and in violation of the law, and order a bond hearing for Ms. Pini Amador's release. Alternatively, Petitioner asks this Court to order her immediate release, as Respondent is wrongfully detaining Petitioner under inapposite law.

JURISDICTION

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause) as Ms. Pini Amador is presently in custody at the Stewart Detention Center

under or by color of the authority of the United States, and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

10. Federal District Courts have federal question jurisdiction, through the *Administrative Procedure Act* (APA), to "hold unlawful and set aside agency action" that is "arbitrary, capricious, abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

VENUE

11. Venue is proper because Petitioner is detained at Stewart Detention Center in Lumpkin, Georgia, which is within the jurisdiction of this District.

12. Venue is also properly in this Court pursuant to 28 U.S.C. § 2241(c)(3) and 8 U.S.C. § 1391(b)(2) and § 1391(e) because the Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security. Ms. Pini Amador is detained at the Stewart Detention Center in Lumpkin, Georgia and is under the direct control of Respondents and their agents.

13. Furthermore, Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to his claims occurred in this District. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

14. The federal habeas corpus statute provides that "[a] court, justice, or judge entering a writ of habeas corpus shall forthwith award the writ or issue and order directing the respondent

to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

15. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. 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).

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If this Court issues an order to show cause (OSC), it must direct the respondents to file a return showing why the petition for a writ of habeas corpus filed by Ms. Pini Amador pursuant to 28 U.S.C. § 2241 should not be granted.

17. As provided by Section 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.* (emphasis added).

18. Nonetheless, giving the Respondents additional time to respond is inappropriate in this case because Ms. Pini Amador faces unjustified detention without being able to challenge her detention at a bond hearing in immigration court while the immigration proceedings are pending. It is important to note that should Ms. Pini Amador continue to fight her case, respondents will not offer the opportunity for pre-removal release.

19. Thus, Ms. Pini Amador's period of detention is uncertain because of the backlog in the immigration courts. Ms. Pini Amador's ongoing detention carries the separation from her mother. Ms. Pini Amador is the only close family member her mother has in the country.

20. The harshness of detention could not only affect her physical health or expose her to psychological trauma, but it could also hinder communications with the undersigned attorney in preparation for her defense. Additionally, it could also be used to pressure her to abandon any claims of immigration relief and accept deportation.

21. Absent a grant of this petition for writ of habeas corpus or an issuance of an Order to Show Cause, the Respondents will cause irreparable harm to Ms. Pini Amador by subjecting her to an indefinite depravation of her liberty and other fundamental rights.

PARTIES

22. Petitioner is a 23-year-old citizen of Venezuela. She is a resident of Cary, North Carolina. She has resided in Hyattsville, Maryland since 2024 but has since moved to North Carolina with her mother in early 2026. She was detained by ICE after her criminal charges were dismissed. She is in the custody, and under the direct control, of Respondents and their agents since April 2026.

23. Respondent Jason Streeval is the Warden of Stewart Detention Center, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Streeval is a legal custodian of Petitioner.

24. Respondent George Sterling is sued in his official capacity as the Director of the Atlanta Field Office of U.S. Immigration and Customs Enforcement. Respondent Sterling is a legal custodian of Petitioner and has authority to release her.

25. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and

oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

26. Respondent Todd Wallace Blanche is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals. Respondent Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

27. Ms. Yereiny Gabriela Pini Amador is a 23-year-old woman who was born in Venezuela.

28. Ms. Pini Amador entered the United States without inspection (EWI) on or about September 2023.

29. While in the United States Ms. Pini Amador has been involved in her community and a lawfully abiding individual who cares for her mother.

30. Ms. Pini Amador faced persecution in her home country of Venezuela. Her family was targeted numerous times by organized crime syndicates in her country of birth. Ms. Pini Amador and her mother decided it best that they escape persecution by coming to the United States.

31. Ms. Pini Amador filed for asylum shortly after arriving to the United States. The matter is pending before the Executive Office of Immigration Review ("EOIR").

32. Ms. Pini Amador had been a victim of domestic violence and several instances of assault by her then-partner.

33. On or about April 1, 2026, Ms. Pini Amador contacted law enforcement because of yet another occurrence of domestic violence by her ex-partner.

34. Because Ms. Pini Amador attempted to defend herself and due to her inability to communicate with police officers in English, she was arrested on charges of assault and domestic violence along with her ex-partner. Ms. Pini Amador was then put on an ICE hold while in state custody.

35. Upon conclusion of their investigation, law enforcement confirmed that she was the victim and acted on self-defense. When the charges against her were dropped, she was transferred to Stewart Detention Center and is now under Respondents' physical custody.

LEGAL FRAMEWORK

A. HABEAS CORPUS

36. "Habeas relief is available when a person is 'in custody in violation of the Constitution or laws or treaties of the United States.'" *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *3 (E.D. Mich. Aug. 29, 2025) (quoting 28 U.S.C. § 2241(c)(3)).

37. The right to file a petition for a writ of habeas corpus is intended to, at a minimum, provide "a means of reviewing the legality of Executive detention." *Rasul v. Bush*, 542 U.S. 466, 474 (2004) (quoting *INS v. St. Cyr*, 533 U.S. 289, 301 (2001)).

38. In the context of immigration, there are two main sources of authority for habeas corpus petition. The first is a civil habeas statute, 28 U.S.C. § 2241. It provides that:

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

. . .

(c) The writ of habeas corpus shall not extend to a prisoner unless—

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

. . .

(3) He is in custody in violation of the Constitution or laws or treaties of the United States . . . . 28 U.S.C. § 2241 Power to grant writ.

39. The second basis of jurisdiction, is the Suspension Clause of the U.S. Constitution, also known as the Great Writ. *See* U.S. Const. art. I § 9, cl. 2 ("The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion of public Safety may require it.").

B. <u>DUE PROCESS CLAUSE, US CONSTITUTION</u>

40. The Fifth Amendment of the U.S. Constitution protects every person from being "deprived of life, liberty, property, without due process of the law." U.S. Const. amend. V § 2.

41. In the immigration context, the Supreme Court extended these constitutional protections to all noncitizens within the United States, including those who entered unlawfully, declaring that "[noncitizens] who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law." *See, Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953); *see also Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (There are literally millions of aliens within the jurisdiction of the United States. The Fifth Amendment, as well as the Fourteenth Amendment, protects every one of these persons from deprivation of life, liberty, or property without due

process of law.), *Plyler v. Doe*, 457 U.S. 202, 215 (1982) (holding that unlawfully present aliens were entitled to both due process and equal protection under the Fourteenth Amendment).

42. The Court reasoned that noncitizens physically present in the United States, regardless of their legal status, are recognized as persons guaranteed due process of law by the Fifth and Fourteenth Amendments. *Plyler*, 457 U.S. at 210 (citing *Mezei*, 345 U.S. at 212; *Wong Wing v. United States*, 163 U.S. 228, 238 (1896); *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886)). Thus, the Court determined, "[e]ven one whose presence in the country is unlawful, involuntary, or transitory is entitled to that constitutional protection." *Mathews*, 426 U.S. at 77; see also *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (explaining that the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.) "The Due Process Clause extends to all 'persons' regardless of status, including non-citizens (whether here lawfully, unlawfully, temporarily, or permanently)." *Lopez-Campos*, 2025 WL 2496379, at *9 (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993))).

43. Accordingly, notwithstanding Congress's indisputably broad power to regulate immigration, fundamental due process requirements notably constrained the power with respect to aliens within the territorial jurisdiction of the United States. *See Kwong Hai Chew*, 322 U.S. 590, 596-97 (1953) (explaining that a lawful permanent resident may not be deprived of his life, liberty, or property without due process of law, and thus cannot be deported without notice of the nature of the charge and a hearing at least before an executive or administrative tribunal).

44. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See Zadvydas v. Davis*, 533 U.S. 678, 721 (2001)

(Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious"). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention, *Diouf v. Napolitano*, 634 F.3d 1081, 1086-87 (9th Cir. 211), as well as those noncitizens deemed "arriving" under the INA, *Jennings v. Rodriguez*, 138 S. Ct. 830, 862 (2018). (Bryer, J., dissenting) (stating that "arriving" noncitizens enjoy due process protections against prolonged detention because they "are held within the territory of the United States at an immigration detention facility" (citing *Wong Wing v. United States*, 163 U.S. 228, 238 (1896)); *see also Kwai Fun Wong v. United States*, 373 F.3d 952, 973-74 (9th Cir. 2004) (concluding that the "entry fiction" does not preclude substantive constitutional protection for noncitizens considered "arriving").

45. As a matter of context, in the last two decades, the Supreme Court has addressed several challenges to the immigration detention scheme. For instance, in *Zadvydas v. Davis*, 533 U.S. 678, 721 (2001), the Supreme Court explained that "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. *Id.* At 690. The Supreme Court then held that the government must demonstrate that a noncitizen's removal is reasonably likely to occur if the noncitizen remains detained for six months after the removal period specified in 8 U.S.C § 1231(a)(6). *Zadvydas v. Davis*, 533 U.S. at 701. In doing so, the Court recognized a presumption that detention longer than six months following a noncitizen's removal period violates that noncitizen's due process right to liberty. *Id.*

46. In *Demore v. Kim*, the Supreme Court upheld the mandatory detention of a noncitizen under 8 U.S.C. § 1226(c) based on petitioner's concession of deportability and the Court's understanding that detention under § 1226(c) is typically "brief." *Demore v. Kim*, 522 U.S.

510, 522-28 (2003). Nevertheless, the Supreme Court's decision in *Demore* did not foreclose a noncitizen's right to challenge prolonged detention that does not provide protections that permit a noncitizen to challenge continued confinement

47. To guarantee against such arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

48. Following *Zadvydas* and *Demore*, Circuit Courts of Appeal that confronted the issue found either that the INA or due process require a bond hearing or release for noncitizens subject to unreasonably prolonged detention pending removal proceedings. *See e.g., Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199 (11th Cir. 2016), *vacated as moot*, 890 F.3d 952 (11th Cir. 2018); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015); *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003).

49. Later, in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court held that the Ninth Circuit erred by interpreting 8 U.S.C. §§ 1226(c) and 1225(b) to require bond hearings as a matter of statutory construction. The Supreme Court concluded that §§1225(b), 1226(a), and 1226(c) do not give detained [noncitizens] the right to periodic bond hearings during the course of their detention. Because the Ninth Circuit had not decided whether the Constitution itself requires bond hearings in cases of prolonged detention, the Court remanded for the Ninth Circuit to address the issue. *Id.* At 851. The Court's majority opinion did not express any views on the constitutional question and left it to the lower courts to address the issue in the first instance.

50. In his dissent, Justice Breyer expressed that "to hold a [person] without bail is to deprive him of bodily 'liberty . . .' where there is no bail proceeding, there has been no bail-related 'process' at all." citing *United States v. Salerno*, 481 U.S. 739-51 (1987). Justice Breyer also mentioned that "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Id.* citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring); *Zadvydas*, 533 U.S., at 718 (Kennedy, J., dissenting). To Justice Breyer "[t]he Due Process Clause foresees eligibility for bail as part of due process" because [b]ail is basic to our system of law." *Jennings*, at 862, (citing *Salerno, supra,* at 748-51; *Schilb v. Kuebel*, 404 U.S. 357, 365 (1971); *Stack v. Boyle*, 342 U.S. 1, 4 (1951)).

51. Since the Supreme Court's *Jennings* decision, lower courts have expressed that "any statute that allows for arbitrary prolonged detention without any process is unconstitutional or those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so." *See e.g., Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

52. In immigration cases, civil detention has been found only permissible where it bears "reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). As concluded in *Zadvydas*, due process thus requires "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

53. Also, and relevant here, in the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the

community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

54. Thus, where government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether such as significant deprivation of liberty is reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"); *cf. Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (noting that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards").

55. To determine if the prolonged detention of a noncitizen is reasonable, Courts have applied a reasonableness test, which involves three main factors. First, courts have evaluated whether the noncitizen has raised a "good faith" challenge to removal—that is, the challenge is "legitimately raised" and presents "real issues." *Chavez Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a "function of the length of the detention,' with detention presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; *accord Sopo*, 825 F.3d at 1217-18. In assessing the length of detention, delay attributable to government weighs against finding the detention reasonable. *Sopo*, 825 F.3d at 1218. Third, courts consider the likelihood that detention will continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d

at 478 (finding detention unreasonable after nine months of detention, when parties could "have reasonably predicted that Chavez-Alvarez's appeal would take a substantial amount of time, making his already lengthy detention considerably longer"); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

56. Due process also requires certain minimal bond hearing procedures. First, the government must bear the burden of proof by clear and convincing evidence to justify continued detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if the government cannot meet its burden, a decisionmaker must assess a noncitizen's ability to pay a bond when determining the appropriate conditions of release. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

57. The government's burden to justify continued detention is determined by the *Mathews* three-factor balancing test: Courts consider (1) "the private interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest," and (3) "the Government's interest, including function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.*

58. Due process also requires that a neutral decisionmaker consider alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

59. Courts have ruled that automatically stayed release from detention is a violation of the Fifth Amendment. *See, e.g., Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn. 2025) (finding that it "does not require any showing of dangerousness or flight risk. Nor is it

subject to immediate review by an immigration judge. It operates by fiat and has the effect of prolonging detention even after a judicial officer has determined that release on bond is appropriate. That mechanism's operation here—in the absence of any individualized justification renders the continued detention arbitrary as applied." Cf. *Zadvydas*, 533 U.S. at 699-700).

60. The "recent shift to use the mandatory detention framework under Section 1225(b)(2)(A) is not only wrong but also fundamentally unfair. In a nation of laws vetted and implemented by Congress, we don't get to arbitrarily choose which laws we feel like following when they best suit our interests." *Lopez-Campos*, 2025 WL 2496379, at *10.

61. It is important to consider detention for asylum seekers is often lengthy and that immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: "the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez*, 783 F.3d at 478; *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. "And in some cases[,] the conditions of their confinement are inappropriately poor." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), *DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities* (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, *e.g.*, indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

62. The above is also a reality from Ms. Pini Amador's case. While in detention her freedom of movement is completely limited, she is unable to earn a living, and is separated from

her mother and loved ones. These conditions and obstacles only further underscore the serious due process concerns that prolonged immigration detention entails for Ms. Pini Amador.

63. Upon weighing the *Mathews* factors, this Court should find that the Government's interest in fewer bond hearings (the efficient processing on noncitizens for removal) is diminished. Additionally, since Ms. Pini Amador's detention will continue pending future immigration proceedings, this Court should find that the Government's interest in denying her the opportunity for a bond hearing does not outweigh Ms. Pini Amador's liberty interest and would also create a high risk of erroneous deprivation of said right.

64. The government's decision that all noncitizens, like Ms. Pini Amador, are to be mandatorily detained is arbitrary and affords individuals like her no process, let alone due process. Therefore, her detention should be unconstitutional.

C. <u>The Immigration and Nationality Act of 1952 ("INA")</u>

65. The Immigration and Nationality Act of 1952 ("INA"), codified in Chapter 12 of Title 8 of the United States Code, governs all aspects of immigration law. *See* 8 U.S.C. §§ 1101 *et seq.* Forming the basis of current immigration laws of the United States, the INA addresses issues of admission qualifications for noncitizens, naturalization and loss of nationality, refugee assistance, and removal procedures for noncitizen terrorists. *Id.*

66. Sections 8 U.S.C §§ 1225, 1226 govern how the executive branch evaluates inadmissible noncitizens. Inspection or apprehension of the noncitizen is a necessary precondition of removal. Only after a noncitizen is identified as inadmissible can removal proceedings happen.

67. In *Jennings v. Rodriguez*, the Court determined that the government may "detain certain aliens seeking admission into the country" under § 1225 (b), while § 1226 "authorizes the

Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." *Id.* (emphasis added).

68. Under § 1225, an "applicant for admission" is a noncitizen "present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). "[A]dmission" and "admitted" are defined as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A).

69. Section 1225(b)(1) of the INA authorizes expedited removal for certain "applicants for admission" in two categories. First, noncitizens "arriving in the United States" that are determined by an immigration officer to be inadmissible due to misrepresentation or failure to meet documents requirements. *Id.* at § 1225(b)(1)(A)(i); *see also Id.* at § 1182(a)(6)(C), (a)(7).

70. Second, noncitizens that (a) are inadmissible because of misrepresentation or failure to meet documents requirements; (b) have not "been admitted or paroled into the United States"; (c) have not "affirmatively shown, to the satisfaction of an immigration officer, that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility"; and (d) have been designated by the Attorney General for expedited removal. *Id.* at § 1225(b)(1)(A)(iii).

71. These two categories of noncitizens subject to §1225(b)(1) are subject to mandatory detention "until certain proceedings have concluded." *Jennings*, 583 U.S. at 297. Individuals that fall under Section 1225(b)(1) are "normally ordered removed 'without further hearing or review' pursuant to an expediated removal process" unless claiming asylum or a fear of persecution. *Jennings*, 583 U.S. at 287 (first quoting § 1225(b)(1)(A)(i); then citing § 1225(b)(1)(A)(ii)).

72. Noncitizens who are "seeking admission" and not covered by the expedited removal provisions in § 1225 (b)(1) are subject to Section 1225(b)(2). *See id.* at 287. This category

would include, for example, noncitizens who are arriving in the United States, seek admission, and are inadmissible for some reason other than misrepresentation or failure to meet documents requirements. *See* 8 U.S.C. § 1182(a)(2)-(3).

73. Section 1225(b)(2)(A) governs mandatory detention of applicants for admission. Subject to limited exceptions, Section 1225(b)(2) provides that such noncitizens "shall be detained" for full removal proceedings under §1229a "if the examining immigration officer determines" that the noncitizen "is not clearly and beyond a doubt entitled to be admitted." *Id.* at §1225(b)(2)(A).

74. Alternatively, Section 1226(a) "provides the general process for arresting and detaining aliens who are present in the United States and eligible for removal." This Section provides for discretionary detention. 8 U.S.C. § 1226(a).

75. Under § 1226(a), a noncitizen "may be arrested and detained" "[o]n a warrant issued by the Attorney General" if their removal proceedings are pending. *Id.* Detention pursuant to § 1226(a) is not mandatory. If the noncitizen was not charged with, arrested for, or convicted of certain criminal offenses enumerated in § 1226(c), the government has discretion to release them on "bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or . . . conditional parole." *Id.* at § 1226(a)(2)(A)-(B).

76. Beyond how noncitizens are identified as inadmissible, the one key distinction between the two Sections is that noncitizens detained under §1226(a) are entitled to receive bond hearings at the outset of detention. 8 C.F.R. §§ 236.1(d)(1). *See also Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018).

77. Not only does §1226(a) provide several layers of review of the agency's initial custody determination, but it also confers "an initial bond hearing before a neutral decisionmaker,

the opportunity to be represented by counsel and to present evidence, the right to appeal, and the right to seek a new hearing when circumstances materially change." *See e.g.*, *Rodriguez Dias v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022)(observing that §1226(a) and its implementing regulations "provide extensive procedural protections that are unavailable under other detention provision").

78. For decades, DHS had applied § 1226(a) and its discretionary release and review of detention "to a vast majority of noncitizens allegedly in this country without valid documentation"—a practice codified by regulation. *See, e.g., Salcedo Aceros*, 2025 WL 2737503, at *3. However, last year the Government upended this long-held understanding of the law.

79. First, on July 8, 2025, ICE issued an interim guidance memo stating that anyone who entered without inspection was ineligible for release on bond and could not challenge their detention at a bond hearing in immigration court, regardless of how long an individual has lived in the United States. As a result, DHS attorneys started arguing, and some Immigration Judges ("IJs") started finding, that such individuals were not eligible for bond hearings in immigration court.

80. Then, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedential decision binding on all IJs, holding that an IJ had no authority to consider bond requests for any person who entered the United States without inspection. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A) and therefore ineligible for release on bond. In practice, DHS is not exercising this authority. As a result, thousands of people are facing months or years in detention without any individualized consideration for whether they should be detained.

81. But the mandatory detention of applicants for admission applies after an examining immigration officer determines that [a noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted. 8 U.S.C. §1225(b)(2)(A). Additionally, it is important to note, that individuals who have not been inspected and authorized by an immigration officer lack the trait to be categorized as "applicants for admission" since statutory language of §1225(b)(2) contemplates a determination by an "examining immigration officer" regarding a noncitizen's admissibility. *See* § 1225(b)(2).

82. However, the Government is now contending that anyone who entered without inspection remains an "applicant for admission" who is "seeking admission" and thus subject to mandatory detention under Section 1225(b)(2). *See e.g., Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (citing *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)).

83. Several district courts have held that the Government's new, and more expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect on the basis that this reading of the statute would render 1226(c) inoperable or moot. Several Courts have then rejected the government's position and have held that such individuals are subject to § 1226(a) and thus eligible for a bond hearing. *See also e.g., Rodriguez Vasquz v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025); *See e.g., Aguilar Merino v. Ripa*, 25-23845-CIV, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025), and *J.Y.L.C.. v. Bostock, et al.,* 3:25-CV-02083-AB, (D. Or. Nov. 12, 2025) (collectin cases rejecting *Matter of Yajure Hurtado*).

84. A recent case where the Court rejected the government's position, and relevant here, is *Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025)*. On November 20, 2025, the District Court granted partial

summary judgment for the four petitioners, holding that the government's policy is inconsistent with the plain language of the INA and that Petitioners are properly subject to §1226(a).

85. Then, on November 25, 2025, the Court certified all noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time DHS makes an initial custody determination as "the Bond Eligible Class" and expressly "extend[ed] the same declaratory relief . . . granted to Petitioners to the Bond Eligible Class as a whole." *Maldonado Bautista v. Santacruz*, 813 F. Supp. at 1124.

86. The Ninth Circuit has administratively stayed the decision that the bond-eligible class would extend beyond the Central District of California. *Maldonado Bautista v. Santacruz, No. 26-1044*. Nonetheless, this Court has established similar interpretations regarding the bond-eligible class. *See J.A.M v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-CV-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

87. This Court in *J.A.M. v. Streeval* determined that mandatory detention under § 1225(b)(2) narrowly applies to "applicants for admission" and who are "seeking admission." *J.A.M. v. Streeval*, at *8-9. Moreover, this Court emphasized there is no reasonable interpretation that an alien seeking admission is synonymous with "any alien present in the United States who has not been admitted." *Id.* at 14.

88. This Court further determined in *P.R.S. v. Streeval* that the statutory scheme in § 1225(b)(2) mandates detention for aliens seeking admission "by being inspected by an 'examining immigration officer' to determine whether the alien is clearly and beyond a doubt entitled to be

admitted. If the officer makes a preliminary decision that the alien is not admissible . . . then detention is mandatory. . ." *P.R.S. v. Streeval*, at *3.

89. Ms. Pini Amador is a member of the bond-eligible class and would be eligible for bond under this Court's interpretations in *J.A.M.* and *P.R.S.* because (1) she entered the United States without inspection, (2) she was not apprehended upon arrival to the United States, and (3) is not subject to detention under § 1226(c), § 1225(b)(1), or § 1231 at the time DHS made an initial custody determination.

D. <u>THE ADMINISTRATIVE PROCEDURE ACT (APA), 5 U.S.C § 706(2)(A)</u>

90. Section 706(2)(A) of the APA commands a reviewing court to "hold unlawful *and set aside* agency action, findings, and conclusions" that are found to be "arbitrary, capricious . . . or otherwise not in accordance with law." § 706(2)(A) (emphasis added).

91. APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702.

92. Respondents' continued detention of Ms. Pini Amador for an indefinite period of time without a bond hearing or justification is adversely and severely affecting her liberty and freedom, and such detention would be considered arbitrary or capricious.

E. <u>EXHAUSTION</u>

93. Section 706(2)(A) of the APA commands a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions" that are found to be "arbitrary, capricious, . . . or otherwise not in accordance with law." § 706(2)(A).

94. Under the doctrine of exhaustion of administrative remedies, "a party may not seek federal judicial review of an adverse administrative determination until the party has first sought all possible relief within the agency itself." *Howell v. INS*, 72 F.3d 288, 291 (2d Cir. 1995) (quoting *Guitard v. U.S. Sec'y of Navy*, 967 F.2d 737, 740 (2d Cir. 1992)).

95. However, a party need not exhaust administrative remedies when the available remedies would "provide no genuine opportunity for adequate relief" or when "administrative appeal would be futile." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.) (quoting *Able v. United States*, 88 F.3d 1280, 1288 (2d Cir. 1996)). *See also McCarthy v. Madigan*, 503 U.S. 140, 146049 (1992), *superseded by statute on other grounds as stated in Booth v. Churner*, 532 U.S. 731 (2001) (noting that traditional exceptions include where exhaustion would cause "undue prejudice to subsequent assertion of a court action" or "irreparable harm" to the petitioner, where there is "some doubt as to whether the agency was empowered to grant effective relief," or where it would be futile because "the administrative body is shown to be biased or has otherwise predetermined the issue before it") (internal quotation marks omitted).

96. In the context of immigration, Congress has not explicitly mandated exhaustion. Where Congress has not explicitly spoken, requiring the exhaustion of administrative remedies lies within "sound judicial discretion." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In exercising that discretion, the Supreme Court has stated that "federal courts must balance the interest of the individual in retaining prompt access to a federal judicial forum against countervailing institutional interests favoring exhaustion." *Id.* at 146. Those institutional interests are "protection administrative agency authority and promoting judicial efficiency." *Id.* at 145.

97. The *McCarthy* Court also identified situations in which the interest of the individual weighs heavily against the institutional interests. *See id.* at 146-49. Relevant here, "an

administrative remedy may be inadequate where the administrative body . . . has otherwise predetermined the issue before it." *Id.* at 148 (citing *Gibson v. Berryhill*, 411 U.S. 564, 575, n. 14 (1973)).

98. Further, constitutional challenges have been found exempt from administrative exhaustion requirements. *See Khan v. Atty. Gen. of U.S.*, 488 F.3d 226, 236 n.8 (3d Cir. 2006) (internal alterations and quotations omitted) ("[D]ue process claims generally are exempt from the exhaustion requirement because the BIA does not have jurisdiction to adjudicate constitutional issues."); *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) ("'[T]he BIA does not have jurisdiction to adjudicate constitutional issues . . . .'" (quoting *Vargas v. U.S. Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987)).

99. As mentioned above, on July 8, 2025, ICE was instructed, via interim guidance memo, that anyone who entered without inspection (EWI) is ineligible for release on bond. Then, on September 5, 2025, the BIA held that "[b]ased on the plain language of § 235(b)(2)(A) of the [INA], Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

100. In accordance with the July 8, 2025 interim guidance memo and the BIA decision in *Matter of Yajure Hurtado*, DHS's attorneys have the practice of arguing, and Immigration Judges throughout the country, including those at Stewart Detention Center, have started finding that individuals, such as Ms. Pini Amador, could not challenge their detention at a bond hearing in immigration court, regardless of how long an individual has lived in the United States, their pending forms of relief, or whether they are a danger to the community or a flight risk. As a result, individuals such as Ms. Pini Amador are denied bond hearings in immigration court.

101. Since the BIA is an administrative body within the DOJ, it is part of and under the authority of the executive branch of the government. Its members are appointed by the Attorney General, and its decisions are binding on all immigration judgments. *Yajure Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens, like Ms. Pini Amador, to hold a bond hearing. As such , this Court should find that the agency's position is already set and recourse to administrative remedies is very likely futile.

102. Since the government has already predetermined that anyone who entered without inspection (EWI) is ineligible for release on bond, established a no-bond for EWIs policy, and has resorted to an across-the-board application of § 1225(b)(2), Ms. Pini Amador had to proceed directly to filing this petition for writ of habeas corpus based on *Maldonado Bautista* class membership and for the violation of her statutory and constitutional rights.

103. Requiring exhaustion, in this cause, would not further the ends of judicial efficiency and protecting administrative authority because it would simply delay the resolution of Ms. Pini Amador's legal questions. It is important to consider that in detention cases, appeals to the BIA can take months or years. Thus, requiring habeas petitioners, such as Ms. Pini Amador, to appeal to the BIA to prudentially exhaust is not efficient, would cause irreparable harm by continuing to deprive her of her liberty.

104. Thus, Ms. Pini Amador's individual interest in having prompt access to this forum outweighs any institutional interests at stake.

105. Therefore, the Court should consider the merits of the Petition. This Court intervention, to enjoin the Respondents from preventing Ms. Pini Amador from having a bond hearing pursuant to the holding in *Yajure Hurtado*, is necessary to enable her to avail herself of her administrative remedies.

CLAIMS FOR RELIEF

COUNT ONE
Request for Relief Pursuant to *Maldonado-Bautista*

106. Petitioner, Ms. Pini Amador, re-alleges and incorporates paragraphs 1-105 as if fully set forth herein.

107. As a member of the Bond Eligible Class, Ms. Pini Amador is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

108. The Order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

109. The Order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

110. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

111. Additionally, Ms. Pini Amador is eligible for relief under this Court's determinations in *J.A.M.* and *P.R.S.* No immigration enforcement official determined beyond a doubt that Ms. Pini Amador was inadmissible upon her arrive to the United States. Instead, Ms. Pini Amador was deemed an alien present in the country who has not been admitted or paroled and has been in the United States for over two years. There is no reasonable interpretation she is an "alien seeking admission" under the § 1225(b)(2) scheme and would be bond-eligible based on this Court's interpretation in *J.A.M.* and *P.R.S.*

112. By denying Ms. Pini Amador a bond hearing under § 1226(a) and wrongly asserting that she is subject to mandatory detention under § 1225(b)(2), Respondents violate Ms. Pini Amador's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

COUNT TWO
Violation of Fifth Amendment Right to Due Process

113. Petitioner, Ms. Pini Amador re-alleges and incorporates paragraphs 1-112 as if fully set forth herein.

114. "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).

115. Civil Immigration detention is only permissible where it bears a "reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

116. Ms. Pini Amador's immigration proceedings are at an early stage, and she could raise a good faith challenge to removal.

117. Additionally, there is no removal order. Her removal is not imminent or reasonably foreseeable. Therefore, Ms. Pini Amador's continued and prolonged detention does not bear a reasonable relation to the purpose for which it was committed. It is important to note that the reasonableness of her detention can only be established once the government satisfies its burden of proof to show by clear and convincing evidence that community protection or flight risk concerns apply to her. This can only happen in a bond hearing, which the Respondents are not

affording to Ms. Pini Amador. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690.

118. Furthermore, the mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens, such as Ms. Pini Amador, residing in the United States who are subject to the grounds of inadmissibility only because they previously entered the country without being admitted.

119. Ms. Pini Amador's detention was a result of an arrest for assault and domestic violence. Law enforcement's further investigation revealed she was the victim of domestic violence and acted in self-defense. Her arrest led to ICE detention but would not amount to mandatory detention under § 1226(c), nor should she be considered a danger to the community based on this prior incident.

120. Ms. Pini Amador has demonstrated through clear and convincing evidence that she is not a flight risk. Prior to her detention, Ms. Pini Amador attended all court hearings for her immigration matter and abided by provided filing deadlines prior to being detained.

121. Ms. Pini Amador is detained under §1226(a) and is not subject to another detention provision, such as 1225(b)(1), § 1226(c), or § 1231.

122. However, in accordance with the BIA decision in *Matter of Yajure Hurtado*, DHS attorneys have the practice of arguing and IJs throughout the country, including those stationed at Stewart Detention Center, have started finding that individuals, such as Ms. Pini Amador, could not challenge their detention at a bond hearing in immigration court, regardless of how long an individual has lived in the United States. As a result, individuals such as Ms. Pini Amador are denied bond hearings in immigration court.

123. These cumulative actions render his detention even more constitutionally suspect, as they reflect punitive conduct rather than civil process.

124. Respondents lack statutory authority to detain Ms. Pini Amador under Section 1225(b)(2) because that statute does not apply to noncitizens in her circumstances. Accordingly, Ms. Pini Amador's continued detention constitutes a deprivation of liberty without due process of law. The Court should order her release.

COUNT THREE
Violation of INA and its Implementing Regulations; 8 U.S.C § 1226(a) Unlawful Denial of Bond Hearings

125. Petitioner, Ms. Pini Amador, re-alleges and incorporates paragraphs 1-124 as if fully set forth herein.

126. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens, such as Ms. Pini Amador, residing in the United States who are only subject to the grounds of inadmissibility because they previously entered the country without being admitted.

127. Ms. Pini Amador is detained under § 1226(a) and is not subject to any detention provisions described in § 1225(b)(2), § 1226(c), or § 1231.

128. The government's no-bond for EWIs policy and the incorrect, willful, and capricious application of § 1225(b)(2) to Ms. Pini Amador violates the *Immigration and Nationality Act*.

COUNT FOUR
Unlawful Denial of Bond hearing in Violation of Eighth Amendment Right to Bail

129. Petitioner, Ms. Pini Amador, re-alleges and incorporates paragraphs 1-128 as if fully set forth herein.

130. The Eighth Amendment of the United States Constitution prohibits "cruel and unusual punishments." U.S. Const. amend. VIII cl. 4.2.

131. Bail is "basic to our system of law." It not only "permits the unhampered preparation of a defense," but also "prevent[s] the infliction of punishment prior to conviction." *Jennings*, at 862, (Breyer, J., dissenting) citing *Salerno, supra,* at 748-51; *Schilb v. Kuebel*, 404 U.S. 357, 365 (1971); *Stack v. Boyle*, 342 U.S. 1, 4 (1951).

132. The government's categorical, incorrect, willful, and capricious application of § 1225(b)(2) to Ms. Pini Amador and continued detention without a bond hearing results in indefinite and unconstitutional imprisonment which surmounts to a cruel and unusual punishment in violation of the Eighth Amendment.

133. For these reasons, Ms. Pini Amador's ongoing and prolonged detention without a bond hearing violates the Eighth Amendment.

COUNT FIVE
Continued Detention Without Bond Hearing in Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)

134. Petitioner, Ms. Pini Amador, re-alleges and incorporates paragraphs 1-133 as if fully set forth herein.

135. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens, such as Ms. Pini Amador, residing in the United States who are only subject to the grounds of inadmissibility because they originally entered the United States without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

136. Ms. Pini Amador is detained under § 1226(a) and is not subject to any detention provisions proscribed in § 1225(b)(1), § 1226(c), or § 1231.

137. Nonetheless, IJs stationed at Stewart Detention Center have a policy and practice of applying § 1225(b)(2) and denying bond hearings to detainees, such as Ms. Pini Amador.

138. Respondents continue to keep Ms. Pini Amador detained under the wrong provision of the INA. Such action against Ms. Pini Amador is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

WHEREFORE, Petitioner Yereiny Gabriela Pini Amador respectfully requests this Court to grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Issue an Order prohibiting Respondents from transferring Petitioner from the district without the court's approval;

(3) Issue a declaration that Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*;

(4) Issue an Order to Show Cause ordering Respondents as to why this Petition should not be granted within three days;

(5) Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;

(6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately on their own recognizance, under parole, or on low bond or any other reasonable conditions of supervision;

(7) Alternatively, issue a Writ of Habeas Corpus, hold a hearing before this Court if warranted to determine if the Petitioner should be subject to mandatory detention under

8 U.S.C § 1225(b)(2); require Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven (7) days;

(8) Issue a declaration that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and the Eighth Amendment.

(9) 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

(10) Grant any further relief this Court deems just and proper.

Respectfully submitted this 3rd day of June, 2026.

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

I represent Petitioner, Yereiny Gabriela Pini Amador, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 3rd day of June, 2026.

/s/Anthony L. Jaime
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