

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

M.A.O.R.,
Petitioner,

vs.

KRISTEN SULLIVAN, *Field Office Director*
for ICE Atlanta Field Office, and
DAVID VENTURELLA, *in his official capacity as*
Acting Director of Immigration and Customs
Enforcement; and
MARKWAYNE MULLIN, *Secretary*
of Homeland Security; and
TODD BLANCHE, *U.S. Attorney General.*

Respondents.

CASE NO.:

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

I. INTRODUCTION

1. This habeas petition challenges the ongoing civil immigration detention of Petitioner M.A.O.R., A# 240-XXX-708, who is detained by U.S. Immigration and Customs Enforcement (ICE). Petitioner was apprehended while appearing for a scheduled ICE check-in in Atlanta, Georgia, more than four years after she was processed and paroled into the United States. Petitioner previously was released by DHS on parole under INA § 212(d)(5) on or about June 22, 2022, and was enrolled in an Alternatives to Detention / ATD program

subject to reporting and monitoring conditions. See Exs. 2, 3.

2. Petitioner was encountered near Eagle Pass, Texas on or about June 21, 2022, and DHS's own parole documentation reflects that she was paroled on or about June 22, 2022 under INA § 212(d)(5). See Ex. 2.
3. Petitioner was not seeking admission when ICE detained her, and ICE did not arrest her at a border, port of entry, or inspection point on August 11, 2026. Petitioner has complied with ICE reporting requirements, including her ATD/reporting obligations, and was detained during a normal ICE check-in in Atlanta on August 11, 2026.
4. Petitioner's Form I-589 Application for Asylum and Withholding of Removal was received by USCIS on October 3, 2022 and remains pending. See Ex. 4.
5. Petitioner seeks asylum, withholding of removal, and protection under the Convention Against Torture, and USCIS issued a receipt notice confirming that her complete Form I-589 was received and pending as of October 3, 2022. See Ex. 4.
6. Petitioner has complied with immigration supervision, has been released in the community for years, has pursued protection-based relief, has held employment authorization, and previously was granted Temporary Protected Status. See Exs. 4, 5, 6.
7. Respondents are treating Petitioner as subject to mandatory no-bond detention

under 8 U.S.C. § 1225(b)(2)(A). That theory is unlawful because Petitioner was not seeking admission at the time ICE detained her in the interior at a scheduled check-in.

8. Binding Eleventh Circuit precedent forecloses Respondents' detention theory.

In *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Mia.*, 175 F.4th 1258 (11th Cir. 2026), the Eleventh Circuit held that § 1225(b)(2)(A) does not impose mandatory no-bond detention on interior noncitizens who were not seeking admission when later arrested. Recent Georgia district court decisions have applied that rule to inspected-and-paroled petitioners later arrested in the interior, holding that prior parole does not authorize mandatory no-bond detention where the person was not then seeking admission. See *B.A.M.A. v. Warden, Irwin County Detention Center*, No. 7:26-cv-95-WLS-ALS, 2026 WL 1362520 (M.D. Ga. May 13, 2026); *I.A.A.M. v. Warden, Irwin County Detention Center*, No. 7:26-CV-068, 2026 WL 1362519 (M.D. Ga. May 13, 2026); *W.C. v. Warden, Irwin County Detention Center*, No. 7:26-CV-157, 2026 WL 1658526 (M.D. Ga. June 4, 2026). See also *Quiroz v. Mullin*, No. 26-6019 (10th Cir. June 30, 2026). Section 1226, not § 1225(b)(2)(A), governs Petitioner's custody unless Respondents establish that a specific mandatory detention provision applies.

9. Upon information and belief, Petitioner is in ICE custody at 180 Ted Turner Drive, Atlanta, GA 30303, but ICE's online locator currently lists the detention

facility only as “Call ICE For Details.” See Exhibit 1 (ICE Locator).

10. The Eleventh Circuit held that § 1225(b)(2)(A) is limited to applicants for admission who are “seeking admission,” and that neither petitioner there was seeking lawful entry when arrested after a traffic stop.
11. The Eleventh Circuit further explained that § 1226 generally governs the arrest and detention of noncitizens present in the country pending removal proceedings, while § 1225 governs arriving noncitizens seeking entry at the border or port of entry.
12. Petitioner is materially situated like the petitioners in *Hernandez Alvarez* and the inspected-and-paroled petitioners in *B.A.M.A.*, *I.A.A.M.*, and *W.C.*: she was paroled years ago, lived in the interior under DHS supervision, appeared for a normal ICE check-in, and is now being denied bond based solely on DHS’s erroneous application of § 1225(b)(2)(A).
13. Independently, Petitioner challenges ICE’s warrantless interior seizure and re-detention. Section 1226(a) authorizes arrest and detention “[o]n a warrant issued by the Attorney General,” and § 1226(b) permits revocation and rearrest under the original warrant only where bond or parole was authorized under § 1226(a). 8 U.S.C. § 1226. On information and belief, ICE assumed custody without a warrant and without an individualized basis to conclude that immediate warrantless arrest was necessary. This claim provides an

independent basis for relief or, at minimum, for an order requiring Respondents to justify the arrest and custody basis. In *Castañon-Nava v. U.S. Department of Homeland Security*, 175 F.4th 828(7th Cir. 2026), the Seventh Circuit recognized that release may be appropriate where an immigration arrest violates § 1357(a)(2), but emphasized the need for an individualized determination that the arrest was unlawful. Here, upon information and belief, Petitioner appeared as required for a scheduled ICE check-in, and ICE had no individualized basis to conclude that she was likely to escape before a warrant could be obtained.

14. Petitioner seeks a writ of habeas corpus as well as declaratory, and injunctive relief, ordering Respondents to cease detaining her under § 1225(b)(2)(A), to treat her custody under § 1226, and to provide immediate release as the primary remedy. In the alternative only, if the Court declines to order release, Petitioner seeks a prompt bond hearing before an immigration judge under § 1226(a), with DHS bearing the burden of proving by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk. A detailed statement of facts and procedural history follows, supporting Petitioner's claims for relief. This release-first remedy is consistent with recent habeas decisions ordering release where DHS detained a noncitizen under an unlawful mandatory-detention framework and a bond-hearing remedy would

not provide meaningful relief. *Freites v. Lyons*, No. 3:26-cv-107-MMH-MCR, 2026 WL 858328, at *4-5 (M.D. Fla. Mar. 30, 2026); *Alfonso v. Current Warden, Miramar ICE Field Office*, No. 26-60257-CIV-SINGHAL, 2026 WL 1083330, at *5-6 (S.D. Fla. Apr. 22, 2026).

II. JURISDICTION

A. This Court Has Jurisdiction Under 28 U.S.C. § 2241 and § 1331

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

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

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

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

19. Section 1252(f)(1) does not bar individualized relief for Petitioner. The Eleventh Circuit in *Hernandez Alvarez* affirmed habeas relief for two individual

petitioners challenging their detention under § 1225(b)(2)(A).

20. To preserve this Court's habeas jurisdiction, Petitioner requests an order prohibiting Respondents from transferring her outside the Northern District of Georgia or changing her immediate custodian while this case is pending.

21. Petitioner separately seeks leave to proceed under initials or pseudonym and for limited sealing or redaction of personally identifying information in light of her pending asylum application and fear of harm or retaliation. Petitioner does not seek to seal the legal basis for this action, only identifying information that could expose her or her family to harm.

III. VENUE

22. Venue is proper in the United States District Court for the Northern District of Georgia because Petitioner has been arrested during a normal ICE Check-in on August 11, 2026 at 180 Ted Turner Drive, Atlanta, GA 30303, under the custody of the Department of Homeland Security (DHS). Habeas petitions generally are filed in the district court with jurisdiction over the filer's place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241. Additionally, with respect to Petitioner's non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities,

venue is proper under 28 U.S.C. § 1391(e)(1)(B) because a substantial part of the events or omissions giving rise to these claims, including the initial arrest and continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in this District. Furthermore, Respondents are officers of United States agencies, Petitioner was arrested in this District, and currently detained in this District, the events giving rise to this action occurred in this District, and ICE's locator has not disclosed her current detention facility. See Ex. 1.

IV. PARTIES

23. Petitioner, M.A.O.R., A# 240-XXX-708, is a noncitizen who was processed near Eagle Pass, Texas, and paroled into the United States on or about June 22, 2022. On or about August 11, 2026, Petitioner was arrested by ICE while appearing for a scheduled check-in at the ICE office in Atlanta, Georgia. She is currently detained and, upon information and belief, ICE has not disclosed her current detention facility through the online locator, which states "Call ICE For Details." Petitioner has complied with DHS supervision and ATD requirements, has pursued asylum, has maintained employment authorization, and presents no meaningful risk of flight or danger warranting detention without process. See Exs. 1, 2, 3, 4, 5, 6.

24. Respondent Kristen Sullivan is the ICE Atlanta Field Office Director. As such, Respondent Sullivan is responsible for the operation of the ICE Field office where Petitioner was arrested and initially detained and is the immediate custodian who is currently holding Petitioner in physical or legal custody. Respondent Sullivan has legal and practical custody of the Petitioner and is sued in her official capacity.
25. Respondent David Venturella is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Venturella is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Venturella is being sued in his official capacity.
26. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Mullin is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.
27. Respondent Todd Blanche is the Attorney General of the United States and is sued in his official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal

cases and applications for bond and relief from removal do so as his designees at the Executive Office for Immigration Review (EOIR).

28. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA’s waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).
29. Petitioner acknowledges, consistent with *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that the proper respondent to the habeas claim is the immediate custodian, and does not rely on the federal officials as “habeas respondents.” Rather, Petitioner names these federal officials in their official capacities solely to ensure that the Court can issue effective relief on non-habeas claims, such as declaratory and injunctive relief, and to direct agency action to those with actual authority to implement it. Should the Court find these officials improper

as respondents to the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as respondents for the non-habeas claims. Maintaining these officials as parties is necessary to ensure that, if relief is granted, the responsible agency officials cannot simply re-arrest Petitioner or otherwise frustrate the Court's order by invoking their erroneous interpretation of the INA. This approach is consistent with *Padilla* and ensures that the Court's orders are both effective and enforceable.

V. STATEMENT OF FACTS AND PROCEDURAL HISTORY

30. Petitioner, M.A.O.R., is a noncitizen who was encountered near Eagle Pass, Texas on or about June 21, 2022, and DHS's records reflect that she was paroled on or about June 22, 2022 under INA § 212(d)(5). Petitioner was released subject to ATD conditions, including enrollment and successful participation in an Alternatives to Detention program, electronic monitoring, and other reporting conditions designated by DHS. Petitioner has continuously resided in the United States since that time with the knowledge of immigration authorities and has complied with her immigration supervision requirements, including scheduled ICE check-ins. See Exs. 2, 3.

31. Petitioner has resided in Georgia for years. DHS's parole records list an address

in Duluth, Georgia, and later USCIS notices list addresses in Duluth and Norcross, Georgia. See Exs. 2, 4, 6.

32. Petitioner is seeking asylum, withholding of removal, and protection under the Convention Against Torture (CAT) through her pending Form I-589 application. USCIS issued a receipt notice confirming that her complete Form I-589 Application for Asylum and Withholding of Removal was received and pending as of October 3, 2022. Petitioner also has a current Employment Authorization Document valid from November 19, 2024 through November 18, 2029. See Exs. 4, 5.

33. On or about August 11, 2026 Petitioner appeared, as required, for a scheduled ICE check-in at the ICE office located at 180 Ted Turner Drive, Atlanta, Georgia 30303. Despite Petitioner's full compliance with the terms of her parole/ATD release and reporting obligations, ICE detained her without a pre-deprivation hearing, without written reasons, and without identifying any changed circumstances.

34. At no point during this check-in, nor at any point since her parole and ATD release in 2022, did Petitioner violate any condition of her release, fail to appear for a hearing, or fail to appear for a scheduled check-in. Petitioner was taken into custody solely because she appeared, as required, for a routine and previously scheduled immigration check-in.

35. Petitioner was initially held following her arrest at the Atlanta ICE office and, upon information and belief, is subject to imminent transfer to a detention facility in Folkston, Georgia or Stewart, Georgia. See Exhibit 1. As of the ICE locator search on August 11, 2026 at 2:29 p.m., Petitioner was listed as "In ICE Custody," but the current detention facility was listed only as "Call ICE For Details." See Ex. 1.
36. ICE did not encounter Petitioner at the border, at a port of entry, or while she was attempting to seek admission into the United States at the time of this arrest. Rather, Petitioner was encountered and taken into custody in the interior of the United States more than four years after her parole, after having already been released into removal proceedings by immigration authorities, and while in full compliance with the terms of that release.
37. DHS is detaining Petitioner as though she were subject to mandatory detention under 8 U.S.C. § 1225(b), despite the fact that Petitioner had previously been processed and released by immigration authorities and was residing in the interior of the United States with pending removal proceedings, and in ongoing compliance with her check-in obligations, at the time of her arrest. Petitioner is not an arriving alien presently seeking admission into the United States, nor was she taking any step to obtain admission when she was seized by ICE.
38. Respondents have identified no changed circumstance justifying Petitioner's

re-detention after years of parole/ATD release and community supervision. Petitioner did not miss an immigration hearing, miss an ICE check-in, violate any identified condition of release, commit any crime, or present any new danger or flight-risk facts. To the contrary, Petitioner appeared as directed for the very ICE check-in at which she was detained. See Exs. 2, 3, 4, 5, 6. No ICE officer identified any missed appearance, ATD violation, criminal issue, changed circumstance, or other reason for detaining Petitioner. DHS cannot convert Petitioner's compliance with supervision into the occasion for unexplained incarceration. If Respondents contend that Petitioner's prior release was revoked, they must identify the authorized official who revoked release, the written basis for revocation, the custody determination issued, and any new facts allegedly justifying detention.

39. Petitioner previously was granted Temporary Protected Status valid from May 24, 2024 to April 2, 2025. USCIS's TPS approval notice states that Petitioner was granted Temporary Protected Status under section 244 of the Immigration and Nationality Act. See Ex. 6.
40. Petitioner does not contend that parole was an admission. Rather, Petitioner contends that her prior inspection and parole, followed by years of community release, ATD compliance, pending asylum, and employment authorization, did not make her presently "seeking admission" when ICE arrested her in the

interior at a normal check-in on August 11, 2026.

VI. EXHAUSTION OF REMEDIES

41. No statutory exhaustion requirement applies to habeas cases. Exhaustion is not required, or should be excused, because Petitioner presents a pure legal question controlled by binding Eleventh Circuit precedent: whether § 1225(b)(2)(A) authorizes her no-bond detention. In *Hernandez Alvarez*, the Eleventh Circuit resolved that issue on habeas review and affirmed relief for interior EWI petitioners detained under DHS's § 1225(b)(2)(A) theory.
42. Any administrative bond request would be inadequate if DHS or EOIR treats Petitioner as categorically ineligible for bond under § 1225(b)(2)(A). That futility is especially clear where Respondents may rely on Petitioner's prior parole or an "arriving alien" label to place her outside Immigration Judge bond jurisdiction under the governing bond regulations and agency precedent. See 8 C.F.R. § 1003.19(h)(2)(i)(B); *Matter of Oseiwusu*, 22 I&N Dec. 19 (BIA 1998). To the extent Petitioner seeks procedural protections at any court-ordered § 1226(a) bond hearing, exhaustion should also be excused because that issue presents a constitutional due process question not within the BIA's authority to finally resolve.
43. To the extent Petitioner seeks constitutionally adequate procedures at a court-

ordered § 1226(a) bond hearing, exhaustion should be excused because that issue concerns the legality of the detention process rather than a discretionary custody determination.

**VII. RESPONDENTS UNLAWFULLY RE-DETAINED PETITIONER
WITHOUT A VALID REVOCATION OR CUSTODY
DETERMINATION**

44. Petitioner's detention is not the result of an initial custody determination but a re-detention following a prior release, executed without the custody process required by federal regulations and due process. Petitioner was previously released by immigration authorities on parole and ATD conditions and has remained in the United States with pending asylum relief and employment authorization. Respondents' current detention therefore required a lawful basis for revocation, a valid custody determination, and notice sufficient to permit review. Respondents' failure to provide those safeguards warrants release or, at minimum, an order requiring Respondents to justify the arrest, revocation, and current custody classification.

**A. The Revocation Violated Mandatory Regulations and Was Executed
Without Lawful Authority**

45. The revocation of a prior release is not standardless. Under 8 C.F.R. § 236.1(c)(9), when a noncitizen has been arrested, taken into custody, and released, that release may be revoked only in the discretion of specified

officials: the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge. DHS regulations also require notice to EOIR of any change in custody location, release from custody, or subsequent taking into ICE custody, and they authorize issuance of a Form I-286 Notice of Custody Determination while removal proceedings remain pending. Accordingly, Respondents should be required to produce the written revocation authority, the identity and title of the official who authorized re-detention, any delegation relied upon, any Form I-286, and any written notification to the Immigration Court reflecting Petitioner's subsequent taking into ICE custody or change in custody location.

46. When she was processed by DHS, Petitioner was released on parole under INA § 212(d)(5) and placed on ATD reporting and monitoring conditions. 8 U.S.C. § 1226(a) authorizes arrest and detention pending a removal decision and permits release on bond or conditional parole except where § 1226(c) applies. Petitioner's release was expressly conditioned on successful participation in ATD, and the ATD notice warned that failure to comply could result in redetermination of release conditions or arrest and detention. See Ex. 3.
47. Petitioner does not contend that parole constituted an admission. Rather, Petitioner contends that DHS's prior decision to parole and release her into the

community under ATD conditions, followed by years of compliance and pending immigration relief, created a substantial liberty interest in remaining free from renewed physical detention absent constitutionally adequate process.

48. Furthermore, the regulatory framework for changing a noncitizen's custody status requires a custody process capable of review. Under 8 C.F.R. § 236.1(d)(1), after an initial custody determination by the district director, the respondent may request review by an immigration judge at any time before the removal order becomes final, except as otherwise provided. The regulations also contemplate formal notice of a custody determination: under 8 C.F.R. § 236.1(g)(1), an immigration official may issue a Form I-286, Notice of Custody Determination, at the time of issuance of the Notice to Appear or later while removal proceedings remain pending. These are not mere formalities but substantive safeguards to ensure any deprivation of liberty is based on individualized information and subject to fair adjudication.

49. Here, none of these required procedures were followed. Petitioner was summarily arrested without being provided a new written custody determination, written revocation decision, statement of reasons, notice of custody rights, or identification of the official who ordered the revocation. Respondents should therefore be required to produce any Form I-286, Form I-200, revocation memorandum, custody determination, notice of custody rights,

and document identifying the official who authorized Petitioner's renewed detention. Failure to comply with these procedures renders the revocation invalid. See, e.g., *Santamaria Orellana v. Baker*, No. 1:25-cv-02841 (D. Md. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765, at 10 (E.D.N.Y. Sept. 29, 2025).

50. The absence of a written revocation decision is particularly significant because Petitioner's ATD release notice expressly tied possible re-detention to noncompliance, but Respondents have identified no ATD violation, no failure to appear, no new criminal conduct, and no changed circumstances. See Ex. 3. If DHS contends that it cancelled or revoked Petitioner's parole/ATD release, it should be required to produce the completed cancellation, the revocation memorandum, and the underlying facts supporting that decision.

51. The absence of those documents is independently significant because § 1226 supplies the general framework for detention of interior noncitizens pending removal proceedings unless a specific mandatory-detention provision applies. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. 2026), the Eleventh Circuit held that § 1226, not § 1225(b)(2)(A), governs detention of interior noncitizens who were not seeking lawful entry when arrested. Petitioner is materially situated within that rule because she was arrested in the interior during a scheduled ICE check-in and was not

seeking lawful entry at a border, port of entry, or inspection point when ICE assumed custody. Respondents therefore cannot avoid the custody procedures applicable under § 1226 by reclassifying Petitioner as subject to mandatory no-bond detention under § 1225(b)(2)(A).

B. The Revocation Violated Petitioner's Fifth Amendment Right to Due Process

52. Because Petitioner had been released on parole and ATD supervision, she acquired a protected liberty interest in her continued freedom. The summary revocation of that liberty without notice, an individualized custody determination, or a meaningful opportunity for review violates the Fifth Amendment's Due Process Clause. The governing standard for procedural due process is the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), which weighs the private interest, the risk of erroneous deprivation, and the government's interest.

53. First, Petitioner's private liberty interest is paramount. She has lived in the United States on supervised release, complied with her release obligations, pursued asylum, obtained employment authorization, and previously held TPS. See Exs. 3, 4, 5, 6. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The abrupt and unexplained deprivation of this liberty constitutes

a profound intrusion.

54. Second, the risk of erroneous deprivation from the procedures used—which were no procedures at all—is exceptionally high. Detaining a compliant individual without advance notice, an individualized assessment, or an opportunity to be heard creates a near-certainty of error. The procedural safeguards required by regulation and affirmed by federal courts—notice, a hearing, and a decision by an authorized official—are the “substitute procedural safeguards” that would eliminate this risk. Their complete absence here makes the due process violation manifest. See, e.g., *J.U. v. Maldonado*, 2025 WL 2772765, at 10 (holding that “ongoing detention of Petitioner with no process at all... violates his due process rights”); *Pinchi v. Noem*, No. 5:25-cv-05632-PCP, 2025 WL 2084921, at 5 (N.D. Cal. July 24, 2025); *Kelly v. Almodovar*, No. 25 Civ. 6448 (AT), 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025). The procedural safeguards required by regulation—notice, a custody determination, and review before an immigration judge—are the safeguards necessary to reduce that risk. 8 C.F.R. § 236.1(d)(1), (g)(1).

55. Third, the government’s interest does not justify re-detention without process.

While the government has an interest in detaining noncitizens who pose a flight risk or danger, Respondents previously released Petitioner on supervision and have not identified any new individualized basis showing that she is a danger

or flight risk. The administrative burden of providing written notice, a custody determination, and a prompt opportunity for review is minimal compared to the severe harm of physical detention. Respondents' failure to provide these procedural protections before re-detaining Petitioner renders her continued detention unlawful and supports immediate release or, at minimum, prompt custody review under § 1226(a).

C. Respondents Should Not Be Permitted To Re-Characterize Petitioner's Detention Status To Avoid § 1226 Custody Procedures

56. By releasing Petitioner on parole and ATD supervision, DHS previously treated Petitioner as eligible for discretionary release and permitted her to live in the community under DHS-designated conditions. Section 1226(a) permits release on bond or conditional parole except where § 1226(c) applies. Section 236.1(c)(9) governs revocation of release after arrest, custody, and release.
57. Respondents should not be permitted to re-characterize Petitioner's detention status to avoid those custody procedures. If DHS contends that Petitioner's prior release was revoked, it must identify the lawful authority for that revocation, the official who authorized it, and the documents supporting the new custody determination. If DHS instead contends that Petitioner is now subject to mandatory detention under § 1225(b)(2)(A), that position is foreclosed by *Hernandez Alvarez*, which held that § 1226 governs interior

noncitizens who were not seeking lawful entry when arrested, and is contrary to *B.A.M.A.*, *I.A.A.M.*, and *W.C.*, which applied the same principle to inspected-and-paroled petitioners later arrested in the interior.

58. Petitioner relied on DHS's prior release determination, complied with the terms of her release, and remained available to immigration authorities while pursuing asylum and maintaining employment authorization. To allow Respondents to disregard that prior custody posture without written notice, a valid revocation, or a new custody determination would undermine the regulatory process governing release and re-detention.
59. Accordingly, Respondents must be required to establish a lawful statutory and regulatory basis for Petitioner's re-detention. If they cannot produce a valid warrant, custody determination, revocation decision, notice of custody rights, and documentation identifying the authorized official responsible for the re-detention, Petitioner is entitled to release or, at minimum, immediate custody process under § 1226(a).
60. If Respondents contend that Petitioner's prior release was revoked, they must identify the lawful authority for that revocation and the official who authorized it. Under 8 C.F.R. § 236.1(c)(9), release after arrest and custody may be revoked only in the discretion of specified officials, including the district director, acting district director, deputy district director, assistant district director for

investigations, assistant district director for detention and deportation, or officer in charge.

VIII. PETITIONER'S § 1182(D)(5)(A) PAROLE DOES NOT MAKE HER PRESENTLY "SEEKING ADMISSION"

61. Under 8 U.S.C. § 1182(d)(5)(A), DHS is authorized, in its discretion, to parole into the United States temporarily under such conditions as it may prescribe any applicant for admission. DHS exercised that authority and allowed Petitioner to live in the community for a substantial period while her asylum application remained pending, subject to routine ICE check-ins, ATD enrollment, and other release conditions. See Exs. 2, 3, 4. Petitioner does not contend that parole was an admission. Rather, she contends that prior parole does not transform an interior arrest years later into a present act of seeking admission under § 1225(b)(2)(A).

62. There are only two categories of noncitizens lacking valid entry documents who are amenable to expedited removal: (1) certain individuals who are "arriving in the United States," and (2) subject to designation by the Secretary of Homeland Security, "certain other" noncitizens who have "not been admitted or paroled" into the United States and cannot establish the required period of continuous physical presence. 8 U.S.C. § 1225(b)(1)(A)(i), (A)(iii). Petitioner was paroled into the United States in 2022, released into the community, and detained in the

interior at a normal ICE check-in in 2026. See Exs. 2, 3.

63. Petitioner was not “arriving in” the United States when ICE detained her on August 11, 2026. She was already physically present in the interior of the United States, appearing at the ICE Atlanta Field Office for a routine check-in. Thus, even if DHS relies on a regulatory “arriving alien” label, Petitioner was not “seeking admission” within the meaning of § 1225(b)(2)(A) at the time of the arrest and re-detention challenged here.

64. The parole statute provides that parole is not an admission and that, when the purposes of parole have been served, the noncitizen’s case continues to be dealt with as that of an applicant for admission. 8 U.S.C. § 1182(d)(5)(A). But “applicant for admission” is broader than the present act of “seeking admission” for purposes of § 1225(b)(2)(A). A parolee may remain an applicant for admission without being physically or legally “seeking admission” when later arrested in the interior years after parole.

65. Any argument that parole froze Petitioner’s position as if she remained at the border forever fails. The so-called entry-fiction doctrine does not authorize DHS to impose border-style mandatory detention on a person who was paroled, released into the community, complied with ATD requirements, pursued asylum, obtained employment authorization, and was later arrested at a normal ICE check-in in the interior.

66. This Court should follow the reasoning of *B.A.M.A.*, *I.A.A.M.*, and *W.C.*, which applied *Hernandez Alvarez* to materially similar cases involving parole. Those cases rejected DHS's attempt to use § 1225(b)(2)(A) to impose mandatory no-bond detention on petitioners who had been inspected and paroled but were later arrested in the interior when they were not seeking admission.

**IX. ICE'S WARRANTLESS INTERIOR ARREST AND REDETENTION
PROVIDE AN INDEPENDENT BASIS FOR RELEASE**

67. Petitioner's detention is unlawful from its very inception because her arrest by ICE at a scheduled check-in violated the clear and restrictive statutory framework established by Congress. The Immigration and Nationality Act (INA) provides only two potential authorities for a civil immigration arrest in the interior of the United States. The primary authority, 8 U.S.C. § 1226(a), explicitly requires that an arrest be conducted "[o]n a warrant issued by the Attorney General." The statute provides a narrow exception to this rule in 8 U.S.C. § 1357(a)(2), which permits a warrantless arrest only where an officer has reason to believe the individual is unlawfully present and is "likely to escape before a warrant can be obtained." Respondents satisfied neither of these statutory requirements, as further detailed above, rendering the seizure of Petitioner a legal nullity from the outset.

68. The warrantless seizure of Petitioner was statutorily invalid because

Respondents could not possibly meet the exigency requirement of 8 U.S.C. § 1357(a)(2). The “likely to escape” determination is a mandatory prerequisite, not mere surplusage. See *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 878 (S.D. Ohio 2016). Here, Petitioner appeared as required for a scheduled ICE check-in and had complied with prior ICE reporting and ATD obligations. Since the exception for a warrantless arrest is inapplicable, Respondents’ only remaining authority was 8 U.S.C. § 1226(a), which required a warrant that Respondents did not possess. Having failed under both statutory provisions, the arrest was void ab initio.

69. In *Castañon-Nava v. U.S. Department of Homeland Security*, 175 F.4th 828 (7th Cir. 2026), the Seventh Circuit described § 1357(a)(2) as governing warrantless immigration arrests and requiring probable cause that the subject is likely to escape before a warrant can be obtained.

70. Petitioner appeared for a scheduled ICE check-in as directed, so there was no individualized basis to conclude that she was likely to escape before a warrant could be obtained. The absence of any warrant and the absence of exigency independently render Petitioner’s seizure unlawful.

71. Castañon-Nava recognized release as an available remedy for class members whose warrantless arrests violated § 1357(a)(2), but it required an individualized determination that the person was actually arrested contrary to

the governing legal standard.

72. Because Respondents have not established a lawful basis for the arrest, re-detention, and current custody classification, Petitioner is entitled to release. At minimum, Respondents should be ordered to show cause and produce any Form I-200 warrant, Form I-286 custody determination, revocation memorandum, notice of custody rights, and written decision identifying the official who authorized Petitioner's renewed detention. If Respondents cannot establish a lawful basis for the arrest and continued custody, release is warranted; alternatively, Petitioner must receive immediate custody process under § 1226(a). *See Rosado v. Figueroa*, No. CV-25-02157-PHX DLR, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Law and justice require restoring the liberty that was unlawfully taken.

73. Petitioner's detention is thus unlawful under any statutory theory Respondents could possibly advance. Petitioner's detention was initiated under 8 U.S.C. § 1225, a statute district Courts around the country have repeatedly found inapplicable to interior apprehensions in dozens of cases involving similarly situated petitioners. Yet, even if Respondents had attempted to detain her under the correct statute for interior apprehensions, 8 U.S.C. § 1226(a), the arrest would still be void because they failed to obtain the prerequisite warrant that the statute unequivocally requires. These are not mere procedural missteps; an

arrest conducted without any statutory authority is an unreasonable seizure that violates the Fourth Amendment. Because the initial seizure and subsequent detention are unlawful *ab initio* under either statutory scheme, the only appropriate and constitutionally sufficient remedy is the one that restores the liberty that was illegally taken: immediate and unconditional release. A bond hearing under § 1226(a) is an inadequate remedy because it presupposes a lawful arrest under that statute—a condition that does not exist here.

X. LEGAL FRAMEWORK AND ARGUMENT

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

74. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. 2026), the Eleventh Circuit rejected DHS's new interpretation of § 1225(b)(2)(A).

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

76. The Eleventh Circuit held that interior noncitizens who were later arrested in the interior were not “seeking admission” when detained.

77. The Eleventh Circuit further held that seeking relief from removal or contesting removal proceedings is not the same as seeking admission under §

1225(b)(2)(A).

78. Petitioner's case falls within *Hernandez Alvarez* because Petitioner was arrested in the interior during a scheduled ICE check-in and was not seeking lawful entry into the United States when seized. Her case also falls within *B.A.M.A.*, *I.A.A.M.*, and *W.C.* because those cases rejected DHS's attempt to use § 1225(b)(2)(A) to impose mandatory no-bond detention on petitioners who had been inspected and paroled but were later arrested in the interior when they were not seeking admission.

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

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

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

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

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

1226 detention of noncitizens already present in the country.

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

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

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

85. In *Castañon-Nava v. U.S. Department of Homeland Security*, 175 F.4th 828 (7th Cir. 2026), the Seventh Circuit held that § 1225(b)(2)(A) applies to noncitizens seeking lawful entry at the border or ports of entry, not to noncitizens living in the interior.

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

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

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

XI. LEGAL FRAMEWORK FOR THE RELIEF SOUGHT

89. This Court has fundamental authority and a constitutional duty under 28 U.S.C. § 2241 to remedy Petitioner's unlawful detention. The Supreme Court has consistently affirmed that the Great Writ is the primary instrument for challenging the legality of civil immigration detention.
90. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *I.N.S. v. St. Cyr*, 533 U.S. 289, 314 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018). As “perhaps the most important writ known to the constitutional law,” habeas corpus is an equitable tool that empowers this Court not just to review custody, but to “dispose of the matter as law and justice require” under 28 U.S.C. § 2243. *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Schlup v. Delo*, 513 U.S. 298, 319 (1995). That power explicitly includes ordering a petitioner's immediate release. *Boumediene v. Bush*, 553 U.S. 723, 787 (2008). This Court's jurisdiction is secure, as the concept of “custody” is broad, attaching at the time of filing and persisting despite subsequent release due to the significant ongoing restraints on Petitioner's liberty. See *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973).
91. The Court must grant the petition for writ of habeas corpus or order Respondent to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondent must file a return “within three days unless for good cause additional time, not

exceeding twenty days, is allowed.” *Id.*

92. 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).

XII. CAUSES OF ACTION AND CLAIMS FOR RELIEF

COUNT ONE

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

93. Respondents are detaining Petitioner under § 1225(b)(2)(A) even though she was arrested in the interior years after parole and was not seeking lawful entry when seized.
94. In *Hernandez Alvarez*, the Eleventh Circuit held that § 1225(b)(2)(A) does not authorize no-bond detention of similarly situated interior petitioners who were not seeking admission when arrested. This Court should likewise follow *B.A.M.A.*, *I.A.A.M.*, and *W.C.*, which applied *Hernandez Alvarez* to inspected-and-paroled petitioners later arrested in the interior.

95. Respondents' continued classification of Petitioner as subject to § 1225(b)(2)(A) is contrary to binding Eleventh Circuit law.
96. Petitioner's detention must instead proceed, if at all, under § 1226.
97. Petitioner is entitled to habeas relief requiring Respondents to cease detaining her under § 1225(b)(2)(A) and to provide immediate release from custody. A bond hearing is requested only in the alternative if the Court declines to order immediate release. In that event, any § 1226(a) bond hearing must require DHS to bear the burden of proving by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk. *J.G. v. Warden, Irwin Cnty. Detention Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020).

COUNT TWO

Unlawful Warrantless Arrest and Re-Detention in Violation of the INA and Due Process (8 U.S.C. §§ 1226(a), 1357(a)(2))

98. Petitioner's seizure and detention are unlawful ab initio because her arrest violated the clear statutory framework established by Congress and the Fourth Amendment's prohibition on unreasonable seizures. The primary authority for a civil immigration arrest in the interior of the United States requires that it be conducted "[o]n a warrant." 8 U.S.C. § 1226(a). The narrow exception for a warrantless arrest under 8 U.S.C. § 1357(a)(2) demands a showing that the individual is "likely to escape before a warrant can be obtained".

99. *Castañon-Nava* confirms that § 1357(a)(2) governs warrantless immigration arrests and requires an individualized likelihood-of-escape basis. Petitioner appeared as required for a scheduled ICE check-in, and Respondents lacked a valid basis to conclude that she was likely to escape before a warrant could be obtained. Having failed to satisfy the statute's mandatory exigency requirement, Respondents' only lawful path to arrest Petitioner was to obtain a warrant under 8 U.S.C. § 1226(a), which they have failed to do.
100. An arrest conducted without any statutory authority is an unreasonable seizure in violation of the Fourth Amendment. Because the initial seizure was void, the government's custody over Petitioner's person is the direct "fruit of the poisonous tree" and is incurably tainted. A subsequent bond hearing cannot remedy a detention that never had a lawful beginning. Petitioner is entitled to an order requiring Respondents to show cause why her arrest and continued detention are lawful, to produce any warrant, revocation decision, custody determination, and written notice supporting the arrest and detention, and to release Petitioner unless Respondents establish a lawful statutory basis for custody. The most effective remedy for this fundamental statutory and constitutional violation is immediate and unconditional release. Consistent with *Freites* and *Alfonso*, release should be the primary remedy where Respondents have detained Petitioner under an unlawful mandatory-

detention theory and have not provided a lawful basis for custody. *Freites v. Lyons*, No. 3:26-cv-107-MMH-MCR, 2026 WL 858328, at *4–5 (M.D. Fla. Mar. 30, 2026); *Alfonso v. Current Warden, Miramar ICE Field Office*, No. 26-60257-CIV-SINGHAL, 2026 WL 1083330, at *5–6 (S.D. Fla. Apr. 22, 2026).

COUNT THREE
Unlawful Re-Detention After Parole and ATD Release
In Violation of Due Process

101. Petitioner was paroled into the United States through a government-authorized process under 8 U.S.C. § 1182(d)(5)(A) and released into the community under ATD conditions. It is axiomatic that the Due Process Clause applies to all persons within the United States, regardless of immigration status, and that “freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner has a protected liberty interest in freedom from physical detention. Respondents’ actions trample upon this fundamental right. See Exs. 2, 3.
102. Petitioner’s liberty interest is strengthened by the fact that DHS affirmatively released her on parole under INA § 212(d)(5) and placed her on ATD/ISAP conditions, which she followed until ICE detained her at a scheduled check-in. See Exs. 2, 3. The summary re-detention of a compliant releasee without advance notice, written reasons, or a meaningful opportunity to be heard is not

merely a bond-eligibility problem; it is a completed deprivation of conditional liberty. Courts applying *Morrissey* and *Mathews* in the immigration context have recognized that a noncitizen released from custody has a substantial liberty interest in remaining free from detention absent constitutionally adequate process. See *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050 (N.D. Cal. 2021).

103. Respondents have deprived Petitioner of liberty through a categorical no-bond detention regime that binding Eleventh Circuit law does not authorize. Because Petitioner is not subject to § 1225(b)(2)(A), continued detention without an individualized custody determination violates due process. At minimum, due process requires a prompt hearing at which the government must justify continued detention based on individualized evidence of flight risk or danger.
104. This due-process claim does not depend on proving that DHS formally revoked active parole in 2026. The constitutional violation is Respondents' renewed detention of Petitioner after years of conditional liberty, ATD release, pending asylum, employment authorization, and community presence, based on parole and an "arriving alien" label, without notice, reasons, changed circumstances, or a meaningful opportunity to be heard. See Exs. 2, 3, 4, 5, 6.
105. Respondents have identified no materially changed circumstances—no new criminal conduct, no failure to appear, no violation of immigration

requirements, and no evidence of danger or flight risk—that would justify renewed detention without process.

COUNT FOUR
Violation of the Fifth Amendment of the U.S. Constitution
Procedural and Substantive Due Process

106. This Count is independent of Petitioner’s parole-based procedural due-process claim. Even if the Court concludes that Petitioner’s parole release does not itself create a protected liberty interest, Respondents still violate due process by categorically detaining Petitioner without bond under the wrong statute and denying any individualized custody hearing.
107. Substantive Due Process: The detention is substantively unconstitutional because it is arbitrary and serves no legitimate, non-punitive purpose. Civil immigration detention is permissible only to prevent flight or danger to the community. See *Jennings v. Rodriguez*, 583 U.S. 281 (2018). As established, Petitioner is neither a flight risk nor a danger. Petitioner’s mandatory detention, without any individualized assessment, bears no reasonable relation to any legitimate government purpose and is therefore an arbitrary deprivation of liberty, excessive, and unconstitutional.
108. Procedural Due Process: Even if a legitimate purpose for detention existed, the procedures used to effectuate it are procedurally deficient. Due process

demands a “meaningful opportunity to be heard at a meaningful time and in a meaningful manner” before a neutral decision-maker. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). The current scheme—whereby Respondents unilaterally subject Petitioner to mandatory detention based on an unlawful policy—entirely lacks these fundamental safeguards and fails the three-part balancing test set forth in *Mathews*.

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

110. The risk of erroneous deprivation of liberty is extreme. The system lacks any neutral adjudicator, as ICE is acting as both prosecutor and judge, a structural

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

111. The Government's Interest: The government's interest in enforcing its detention policy is minimal, if not entirely illegitimate. There is no valid government interest in enforcing an interpretation of the law that is contrary to the plain text of the INA, that conflicts with its own regulations providing for bond hearings under 8 U.S.C. § 1226(a), and that imposes categorical no-bond detention on a paroled noncitizen arrested years later in the interior while not seeking admission. The government has no cognizable interest in violating the law or wasting taxpayer resources on the unnecessary detention of individuals who are neither dangerous nor flight risks.

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

XIII. REMEDIES

THE COURT SHOULD ORDER IMMEDIATE RELEASE

113. Respondents are detaining Petitioner under an unlawful custody theory. Section 1226(a) supplies the general detention framework for noncitizens arrested and detained pending a removal decision, and it permits release on bond or conditional parole unless § 1226(c) applies. 8 U.S.C. § 1226(a), (c). In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. May 6, 2026), the Eleventh Circuit held that § 1226, rather than § 1225(b)(2)(A), governed the detention of interior noncitizens who were not seeking lawful entry when arrested.
114. Federal courts possess broad equitable power under 28 U.S.C. § 2243 to “dispose of the matter as law and justice require,” which includes ordering immediate release when the government’s custody is illegal. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987). Here, law and justice require immediate release—not merely a bond hearing—because Respondents have detained Petitioner under an unlawful mandatory-detention classification, without a lawful revocation process, without changed circumstances, and without any individualized showing of danger or flight risk.
115. Recent persuasive habeas decisions confirm that release is an appropriate primary remedy when DHS detains a noncitizen under an unlawful

mandatory-detention framework and a bond-hearing remedy would risk rendering the writ ineffective. In *Freites*, the court held that the petitioner was not properly detained under § 1225(b)(2), that his detention was governed by § 1226, and that release—not a bond hearing—was the most appropriate relief because an immigration judge likely would again refuse to conduct a bond hearing under the agency’s predetermined view. *Freites v. Lyons*, No. 3:26-cv-107-MMH-MCR, 2026 WL 858328, at *4–5 (M.D. Fla. Mar. 30, 2026).

116. *Alfonso* likewise confirms that habeas relief may include immediate release when DHS detains a noncitizen under an inapplicable § 1225 mandatory-detention theory. Although *Alfonso* involved detention under § 1225(b)(1), rather than § 1225(b)(2)(A), the remedial principle is the same: when the asserted mandatory-detention authority does not lawfully apply, the Court may order release, without prejudice to any lawful re-detention under an applicable statute. *Alfonso v. Current Warden, Miramar ICE Field Office*, No. 26-60257-CIV-SINGHAL, 2026 WL 1083330, at *5–6 (S.D. Fla. Apr. 22, 2026).

117. Because Petitioner was arrested in the interior and was not seeking lawful entry at a border, port of entry, or inspection point when ICE assumed custody, Respondents may not continue to detain her as categorically ineligible for bond under § 1225(b)(2)(A). The proper remedy is immediate release from the unlawful custody that Respondents have already imposed. If Respondents

later seek custody under a lawful statute, they must proceed under that statute and comply with all required statutory, regulatory, and constitutional safeguards.

118. Immediate release is warranted because Respondents have not identified a lawful statutory basis for mandatory no-bond detention and have not made an individualized showing that Petitioner is a danger to the community or a flight risk. A bond hearing is requested only as alternative relief if the Court declines to order release.
119. Petitioner's detention is unlawful at its core because the arrest itself was executed in open defiance of the Immigration and Nationality Act's clear commands. Whether viewed as an arrest under 8 U.S.C. § 1225 or 8 U.S.C. § 1226(a), the seizure was illegal. Respondents claim authority under § 1225, but that statute applies to arriving aliens at the border, not long-term interior residents like Petitioner. The correct statute for an interior apprehension, § 1226(a), unequivocally requires that an arrest be made "[o]n a warrant." Respondents had no such warrant.
120. A later bond hearing would not fully cure the completed constitutional injury caused by Respondents' processless re-detention. The injury occurred when ICE converted Petitioner's compliance with supervision into the occasion for physical confinement without advance notice, written reasons, a warrant, or a

neutral pre-deprivation hearing. Habeas relief remains available to remedy unlawful custody, including where the government later attempts to justify or regularize detention. See *Martinez v. McAleenan*, 385 F. Supp. 3d 349 (S.D.N.Y. 2019).

121. Petitioner also seeks relief based on the defective arrest and re-detention process. Section 1226(b) authorizes revocation of bond or parole authorized under § 1226(a), rearrest under the original warrant, and detention. 8 U.S.C. § 1226(b). The governing regulation identifies the officials who may revoke release after a noncitizen has been arrested, taken into custody, and released. 8 C.F.R. § 236.1(c)(9). The regulation also provides for immigration judge review after an initial custody determination before the removal order becomes final. 8 C.F.R. § 236.1(d)(1).

122. A bond hearing is a wholly inadequate primary remedy for the unlawful detention alleged here. The purpose of a bond hearing is to assess the propriety of *continued* detention following a *lawful* arrest. It presupposes that the government's custody was, at some point, legitimate. That is not the case here. As in *Freites*, a bond-hearing-only remedy risks leaving Petitioner with no meaningful relief if the immigration court again treats her as categorically ineligible for bond under DHS's unlawful § 1225 theory. *Freites v. Lyons*, No. 3:26-cv-107-MMH-MCR, 2026 WL 858328, at *4-5 (M.D. Fla. Mar. 30, 2026).

123. Any release conditions should be individualized and reasonably related to a demonstrated risk of flight or danger. The Court should not permit Respondents to substitute physical detention with categorical or automatic electronic monitoring absent an individualized determination that such a condition is necessary and appropriately tailored. This relief preserves the Court's ability to remedy unlawful detention while allowing Respondents to request lawful, case-specific conditions if they can support them with evidence.
124. A delayed or procedurally inadequate bond hearing would not fully remedy the ongoing deprivation of liberty. Respondents have not made an individualized showing that Petitioner is a danger or flight risk. If the Court orders a bond hearing instead of immediate release, the order should require a prompt hearing with meaningful procedural safeguards, including an individualized determination based on evidence.

If Court Grants Bond Hearing – Ensure Burdens Are Met

125. Should this Court nonetheless order a bond hearing as an alternative to immediate release, it is critical that the order contain specific procedural safeguards to make that remedy meaningful. There is a troubling trend of immigration judges denying bond after a habeas grant based on rote assertions

of flight risk or danger, often without the government presenting any actual evidence. To counteract this and ensure Petitioner is afforded a constitutionally adequate hearing so Petitioner does not have to return to this Court, this Court should follow the sound reasoning of other Circuit Courts and due process mandates.

126. Section 1226(a) does not assign the burden of proof at a bond hearing; it provides only that, pending a removal decision, the Attorney General may continue detention or release the noncitizen on bond or conditional parole. 8 U.S.C. § 1226(a). Although the regulations place the burden on the noncitizen to demonstrate that release would not pose a danger and that the noncitizen is likely to appear, 8 C.F.R. § 1236.1(c)(8), that regulatory allocation does not resolve the constitutional question before this Court. After *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024), the Court owes no deference to an agency's regulatory choice on a question of statutory meaning or constitutional adequacy; rather, the Court must exercise its independent judgment in deciding what process § 1226(a) and the Due Process Clause require. That independent judgment should place the burden on the Government because detention is the Government's requested deprivation of liberty, and because requiring Petitioner to prove that she is not dangerous and not a flight risk forces her to prove a negative. A constitutionally

meaningful bond hearing should therefore require DHS to justify continued detention with individualized evidence, rather than require Petitioner to disprove speculative concerns that Respondents have not established in the first instance.

127. The Eleventh Circuit has not yet addressed this question specifically in relation to noncitizens detained pursuant to § 1226(a). However, the circuits that have addressed the issue have placed the burden on the government to prove that detention is warranted, i.e., that the noncitizen is either a danger to the community or a flight risk. No circuit court to have addressed the issue has placed the burden on the noncitizen to prove that they are not a flight risk or a danger. The Second Circuit in *Velasco Lopez v. Decker*, 978 F.3d 842, 853–56 (2d Cir. 2020), held that the government must prove by clear and convincing evidence that a noncitizen is a danger to the community or a flight risk to deny bond under § 1226(a). The First Circuit in *Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021), held that a noncitizen must be released under § 1226(a) if the government cannot meet its burden of proving dangerousness or flight risk. Similarly, in *German Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020), the Third Circuit held that, once detention becomes unreasonable, the government bears the burden at the bond hearing and must justify continued detention. In any event, the government has not claimed that

Petitioner is a danger or a flight risk, let alone proved it. *J.G. v. Warden, Irwin County Detention Center*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020), squarely places the burden on the government in the § 1226(a) bond-hearing due process context.¹

128. The Court should follow the burden of proof outlined in these cases and determine that the government must prove, by clear and convincing evidence, that Petitioner is either a flight risk or a danger to the community. Congress's assumption for non-criminal noncitizens detained pursuant to § 1226(a) is that discretionary release is available, unlike § 1226(c), which governs mandatory detention for certain criminal noncitizens. Therefore, to prevent a perfunctory and meaningless hearing that would only prolong Petitioner's unlawful detention, any order for a bond hearing must explicitly direct that the government bears the burden of establishing by clear and convincing evidence that Petitioner's detention is necessary. That alternative remedy should be ordered only if the Court declines the primary remedy of immediate release.

¹ There is contrary out-of-circuit authority declining to place the burden on the Government in § 1226(a) bond proceedings. For example, *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022), reflects a contrary approach in the Ninth Circuit, while recognizing that other circuits have reached different conclusions under *Mathews*. Likewise, *Miranda v. Garland*, 34 F.4th 338 (4th Cir. 2022), upheld placing the burden on the noncitizen under § 1226(a). Those decisions are not binding here and are less persuasive in this case because Respondents have not shown lawful statutory authority for detention in the first instance. The better rule here is the one supported by *Lopez-Campos*'s recognition of the substantial liberty interest at stake, the high risk of erroneous detention, and the Government's lack of any legitimate interest in detaining a person it cannot show is dangerous or a flight risk.

129. The Court should follow the burden of proof outlined in these cases and determine that the government must prove, by clear and convincing evidence, that Petitioner is either a flight risk or a danger to the community. Congress's assumption for non-criminal noncitizens detained pursuant to § 1226(a) is that discretionary release is available, unlike § 1226(c), which governs mandatory detention for certain criminal noncitizens. Therefore, to prevent a perfunctory and meaningless hearing that would only prolong Petitioner's unlawful detention, any order for a bond hearing must explicitly direct that the government bears the burden of establishing by clear and convincing evidence that Petitioner's detention is necessary. That alternative remedy should be ordered only if the Court declines the primary remedy of immediate release.

XIV. CONCLUSION AND PRAYER FOR RELIEF

130. The continued detention of Petitioner violates due process rights. But for intervention by this Court, Petitioner has no means of release from ICE custody. Petitioner faces ongoing and irreparable harm as a result of unlawful detention, including deprivation of liberty, loss of employment, and separation from her community and support network. These injuries cannot be remedied by monetary damages and will continue absent immediate judicial intervention. The balance of equities and the public interest strongly

favor expedited consideration and equitable relief, including immediate release as the primary remedy, or a prompt bond hearing only in the alternative. Without such relief, Petitioner will continue to suffer irreparable harm, and the constitutional and statutory violations at issue will persist.

131. Given the egregious constitutional and statutory violations underlying Petitioner's arrest and continued detention, immediate release is warranted, with a prompt § 1226(a) bond hearing ordered only in the alternative if the Court declines to release Petitioner outright. Federal courts possess broad authority under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering immediate release when detention is found to be unlawful. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987). Freites ordered release rather than a bond hearing where the petitioner was unlawfully detained under § 1225(b)(2), and Alfonso ordered immediate release where DHS detained the petitioner under an inapplicable § 1225 mandatory-detention provision. *Freites v. Lyons*, No. 3:26-cv-107-MMH-MCR, 2026 WL 858328, at *4-5 (M.D. Fla. Mar. 30, 2026); *Alfonso v. Current Warden, Miramar ICE Field Office*, No. 26-60257-CIV-SINGHAL, 2026 WL 1083330, at *5-6 (S.D. Fla. Apr. 22, 2026).

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

- (1) Grant the Petition and order Respondents to immediately release Petitioner from physical custody and restore her to her prior parole/ATD release status within twenty-four (24) hours;**
- (2) Order that Respondents certify compliance with the release order and identify the time, place, and manner of release, including any transportation or pickup information necessary for counsel or Petitioner's family to secure her safe return;**
- (3) In the alternative, and only if the Court declines to order immediate release, order Respondents to provide Petitioner with a bond hearing before an Immigration Judge under 8 U.S.C. § 1226(a) within forty-eight (48) hours, at which DHS shall bear the burden of proving by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk; the Immigration Judge shall make an individualized determination based on the evidence presented; and the Immigration Judge shall consider non-bond alternatives to detention and, if setting bond, Petitioner's financial circumstances and ability to pay;**

- (4) Independently, order Respondents to show cause and produce all documents authorizing Petitioner's arrest, re-detention, revocation of release, and current custody classification, including any warrant, Form I-200, Form I-286, revocation memorandum, custody determination, notice of custody rights, document reflecting alleged changed circumstances supporting re-detention, document identifying the official who authorized revocation or re-detention, any delegation of authority relied upon, any completed cancellation of the parole/ATD release, and any written notification to the Immigration Court of Petitioner's subsequent taking into ICE custody or change in custody location under 8 C.F.R. § 236.1(f);
- (5) **Issue an Order to Show Cause** directing Respondents to file a return within three (3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;
- (6) Pending final resolution of this Petition, issue a temporary order pursuant to 28 U.S.C. §§ 1651(a) and 2241 prohibiting Respondents from transferring Petitioner outside the Northern District of Georgia, or otherwise changing Petitioner's immediate custodian, and from removing Petitioner from the United States, absent prior leave of this Court, so as to preserve this Court's habeas jurisdiction under the

district of confinement and immediate custodian rule recognized in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004);

- (7) **DECLARE** that Respondents may not rely on Petitioner's prior parole or an "arriving alien" regulatory label to subject her to mandatory no-bond detention under 8 U.S.C. § 1225(b)(2)(A), and **ENJOIN** Respondents from continuing to detain Petitioner under that unlawful classification or re-detaining her under the same unlawful custody theory;
- (8) Order that any conditions of release, including electronic monitoring, GPS monitoring, ISAP enrollment, or other alternatives to detention, must be individualized, nonpunitive, reasonably related to a demonstrated risk of flight or danger, and no more restrictive than necessary;
- (9) **Award** Petitioner reasonable attorney's fees and costs including under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and any other applicable fee-shifting statute; and
- (10) **Grant** such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 11th Day of August, 2026.

/s/ Karen Weinstock

Karen Weinstock

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EXHIBIT LIST

Petitioner attaches the following exhibits in support of this Verified Petition:

1. **Exhibit 1:** ICE Online Detainee Locator screenshot / printout.
2. **Exhibit 2:** Parole document / DHS parole record dated June 22, 2022.
3. **Exhibit 3:** ATD Enrollment / Notice to Alien.
4. **Exhibit 4:** Form I-589 Receipt Notice.
5. **Exhibit 5:** Employment Authorization Document.
6. **Exhibit 6:** TPS Approval Notice / Form I-797A.
7. **Exhibit 7:** ICE Delegation Order 7030.2

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. Petitioner is detained and cannot practicably execute a verification before filing. Counsel has relied on communications with Petitioner's immigration attorney and Petitioner's family members, as well as available immigration and custody records, including the exhibits attached to this Petition. On the basis of those discussions and records, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 U.S.C. § 2242.

This 11th Day of August, 2026.

/s/ Karen Weinstock
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