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9
10 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

11
12 Paola Amparo GUZMAN ALFARO

13 Petitioner,

14 v.

15 Drew BOSTOCK, Field Office Director of
Enforcement and Removal Operations, Seattle
16 Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
17 Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
18 SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
19 IMMIGRATION REVIEW; Bruce SCOTT,
Warden of Northwest ICE Processing Center.

20 Respondents.
21
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23
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Case No. 25-1706

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Paola Amparo Guzman Alfaro is in the physical custody of
3 Respondents at the Northwest ICE Processing Center (NWIPC). She now faces unlawful
4 detention because the Department of Homeland Security (DHS) and the Executive Office of
5 Immigration Review (EOIR) have improperly concluded Petitioner is subject to mandatory
6 detention.

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

9 3. Based on this allegation in Petitioner's removal proceeding, DHS denied
10 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
11 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
12 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
13 inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore
14 subject to mandatory detention.

15 4. Petitioner sought a bond redetermination hearing before an immigration judge
16 (IJ), but on August 8, 2025 the IJ denied bond. The IJ based this decision on the same legal
17 analysis set forth above. Indeed, the DHS policy states it was issued “in coordination with the
18 Department of Justice (DOJ).” The IJ concluded that notwithstanding Petitioner's 21 years of
19 residing in the United States, she is nevertheless an “applicant for admission” who is “seeking
20 admission” and subject to mandatory detention under § 1225(b)(2)(A).

21 5. Petitioner's detention on this basis violates the plain language of the Immigration
22 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
23 previously entered and are now residing in the United States. Instead, such individuals are
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1 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
2 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
3 having entered the United States without inspection.

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

7 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that, within
8 fourteen days, she be released or allowed to post bond in the amount of \$17,000 as granted in the
9 alternative by the Immigration Judge in his August 4, 2025 order.

10 JURISDICTION

11 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
12 Northwest ICE Processing Center (NWIPC) in Tacoma, Washington.

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

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

18 VENUE

19 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
20 500 (1973), venue lies in the United States District Court for the Western District of Washington,
21 the judicial district in which Petitioner currently is detained.

22 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
23 Respondents are employees, officers, and agencies of the United States, and because a
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1 substantial part of the events or omissions giving rise to the claims occurred in the Western
2 District of Washington.

3 **REQUIREMENTS OF 28 U.S.C. § 2243**

4 13. The Court must grant the petition for writ of habeas corpus or order Respondents
5 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
6 order to show cause is issued, the Respondents must file a return “within three days unless for
7 good cause additional time, not exceeding twenty days, is allowed.” *Id.*

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

14 **PARTIES**

15 15. Petitioner Paola Amparo Guzman Alfaro is a citizen of Mexico who has been in
16 immigration detention since July 17, 2025. After arresting Petitioner in Anchorage, Alaska, ICE
17 did not set bond and Petitioner requested review of her custody by an IJ. On August 4, 2025,
18 Petitioner was denied bond by an IJ at the Tacoma Immigration Court because she was deemed
19 an “applicant for admission.” Petitioner has resided in the United States since 2004.

20 16. Respondent Drew Bostock is the Director of the Seattle Field Office of ICE’s
21 Enforcement and Removal Operations division. As such, Mr. Bostock is Petitioner’s immediate
22 custodian and is responsible for Petitioner’s detention and removal. He is named in his official
23 capacity.
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1 17. Respondent Kristi Noem is the Secretary of the Department of Homeland
2 Security. She is responsible for the implementation and enforcement of the Immigration and
3 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
4 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

8 19. Respondent Pamela Bondi is the Attorney General of the United States. She is
9 responsible for the Department of Justice, of which the Executive Office for Immigration Review
10 and the immigration court system it operates is a component agency. She is sued in her official
11 capacity.

12 20. Respondent Executive Office for Immigration Review (EOIR) is the federal
13 agency responsible for implementing and enforcing the INA in removal proceedings, including
14 for custody redeterminations in bond hearings.

15 21. Respondent Bruce Scott is employed by the private corporation GEO Group, Inc.,
16 as Warden of NWIPC, where Petitioner is detained. He has immediate physical custody of
17 Petitioner. He is sued in his official capacity.

18 LEGAL FRAMEWORK

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

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

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

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

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

9 27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
10 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
11 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
12 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1,
13 139 Stat. 3 (2025).

14 28. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
15 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
16 Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the
17 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present
18 without having been admitted or paroled (formerly referred to as [noncitizens] who entered
19 without inspection) *will be eligible for bond and bond redetermination.*” 62 Fed. Reg. at 10323
20 (emphasis added). The agencies thus made clear that individuals who had entered without
21 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
22 1226 and its implementing regulations.

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

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

11 31. The new policy, entitled “Interim Guidance Regarding Detention Authority for
12 Applicants for Admission,”¹ claims that all persons who entered the United States without
13 inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore
14 are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies
15 regardless of when a person is apprehended and affects those who have resided in the United
16 States for months, years, and even decades.

17 32. In a May 22, 2025, unpublished decision from the Board of Immigration Appeals
18 (BIA), EOIR adopts this same position.² That decision holds that all noncitizens who entered the
19 United States without admission or parole are considered applicants for admission and are
20 ineligible for immigration judge bond hearings.

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23 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

24 ² Available at <https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf>.

1 33. ICE and EOIR have adopted this position even though federal courts have
2 rejected this exact conclusion. For example, after IJs in the Tacoma, Washington immigration
3 court stopped providing bond hearings for persons who entered the United States without
4 inspection and who have since resided here, the U.S. District Court in the Western District of
5 Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not §
6 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.
7 *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24,
8 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass.
9 July 7, 2025) (granting habeas petition based on same conclusion).

10 34. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court
11 explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b),
12 applies to people like Petitioner.

13 35. Section 1226(a) applies by default to all persons "pending a decision on whether
14 the [noncitizen] is to be removed from the United States." These removal hearings are held under
15 § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

16 36. The text of § 1226 also explicitly applies to people charged as being inadmissible,
17 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
18 (E)'s reference to such people makes clear that, by default, such people are afforded a bond
19 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress
20 creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions,
21 the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove*
22 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

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

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

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

FACTS

40. Petitioner has resided in the United States since September 2004 and lives in Anchorage, Alaska.

41. On July 17, 2025, Petitioner was arrested by ICE officials who identified her for enforcement following an investigation into illegal hiring practices by Petitioner's employer. Petitioner is now detained at the NWIPC.

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

1 43. Paola has lived in Anchorage, Alaska for 22 years. She is a well-respected and
2 loved member of the community. She has three children, two of whom are U.S. citizens. She is a
3 devoted mother, who volunteers her time at school functions and fundraisers. She is also an
4 active and valued member of her church community. She has been gainfully employed as a
5 professional cleaner since she entered the United States more than two decades ago. In her job,
6 she has earned the trust and admiration of many of her long-term employers. She also has no
7 criminal history. In short, petitioner is neither a flight risk nor a danger to the community.

8 44. Following Petitioner's arrest and transfer to NWIPC, ICE issued a custody
9 determination to continue Petitioner's detention without an opportunity to post bond or be
10 released on other conditions.

11 45. Petitioner subsequently requested a bond redetermination hearing before an IJ.

12 46. On August 4, 2025, a Tacoma IJ issued a decision that the court lacked
13 jurisdiction to conduct a bond redetermination hearing because Petitioner was in custody under §
14 1225(b)(2)(A) and therefore her detention was mandatory. *In the alternative*, the IJ granted
15 bond in the amount of \$17,000 after finding the Petitioner did not pose a flight risk or danger to
16 the community.

17 47. On August 27, 2025, Petitioner filed an appeal of the IJ's denial of her bond
18 motion with the Board of Immigration Appeals (BIA).

19 48. Yet, this appeal is virtually meaningless, given that the DHS's new policy was
20 issued "in coordination with DOJ," which oversees the immigration courts. Further, as noted, the
21 most recent unpublished BIA decision on this issue held that persons like Petitioner are subject
22 to mandatory detention as applicants for admission. Finally, in the *Rodriguez Vazquez* litigation,
23 where EOIR and the Attorney General are defendants, DOJ has affirmed its position that
24

1 individuals like Petitioner are applicants for admission and subject to detention under §
2 1225(b)(2)(A). *See* Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC
3 (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

4 49. An appeal to the BIA is futile and therefore need not be exhausted. Without relief
5 from this court, Petitioner faces the prospect of months, or even years, in immigration custody,
6 separated from her family and community.

7 50. According to the BIA’s own data, on average, the agency takes well over six
8 months to render a decision on a bond appeal. By this time, the damage is done: most appeals
9 become moot because a final decision has been entered and the noncitizen has either been
10 released or deported. Rather than treat the custody appeals as cases involving a person’s core
11 right to liberty under the Due Process Clause, the BIA lets them languish for months, and in
12 some cases, years. This practice stands in stark contrast to federal courts facing the similar
13 context of pretrial detention. Both district judges and courts of appeals act within days, weeks, or
14 at most a couple of months, of appeals from magistrate judge detention decisions. By
15 systematically delaying bond appeal determinations, the BIA fails to similarly acknowledge the
16 serious liberty issues at stake in these civil detention cases. These liberty issues were recently
17 highlighted by the D.C. Circuit Court in a decision centering around the recent expanded
18 application of Expedited Removal, which found that those immigrants who are present in the
19 United States after having “long since entered our country” have “a weighty liberty interest in
20 remaining here and therefore must be afforded due process under the Fifth Amendment.” *See*
21 *Make the Road New York, et al. v. Noem*, No. 25-cv-00190, at *2, *21 (D.D.C. Aug. 29, 2025),
22 citing *Landon v. Plasencia*, 459 U.S. 21, 34 (1982).

1 51. Delays in bond appeal determinations compound severe harm resulting from
2 erroneous bond denials by the IJ: prolonged detention, difficulty in defending cases, and
3 exposure to the jail-like conditions of ICE's detention facilities, among other harms.

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

7 **CLAIMS FOR RELIEF**

8 **COUNT I**

9 **Violation of the INA**

10 53. Petitioner incorporates by reference the allegations of fact set forth in the
11 preceding paragraphs.

12 54. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
13 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
14 relevant here, it does not apply to those who previously entered the country and have been
15 residing in the United States prior to being apprehended and placed in removal proceedings by
16 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
17 § 1225(b)(1), § 1226(c), or § 1231.

18 55. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued
19 detention and violates the INA.

20 **COUNT II**

21 **Violation of Due Process**

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

57. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

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

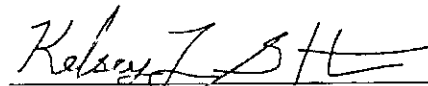
59. The government's detention of Petitioner without a bond redetermination hearing to determine whether she is a flight risk or danger to others violates her right to due process.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that Respondents release Petitioner or require Petitioner's release upon payment of the bond amount found in the alternative by the Immigration Judge in his August 4, 2025 order within 14 days;
- c. 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
- d. Grant any other and further relief that this Court deems just and proper.

DATED this 4th of September, 2025.



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