IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Erika RODRIGUEZ-ACURIO, Petitioner, v. Judith ALMODOVAR, Acting Director of the New York City Field Office of Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; Pamela Bondi, Attorney General, Respondents.	Case No.: 25-cv-6065 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** Agency No.: A[redacted]

INTRODUCTION

1. Erika Rodriguez-Acurio, Petitioner, came to the United States from Ecuador in September of 2021, hoping to seek asylum in this country. On September 14, 2021, Immigration and Customs Enforcement ("ICE"), an arm of the Department of Homeland Security ("DHS"), paroled Petitioner from federal immigration custody so that she could apply for humanitarian protection through the asylum process.

2. Petitioner settled down in Brooklyn with her husband. Over the past four years, she found work as a housekeeper. In 2022, she had a child—[redacted]—who is a United States citizen.

3. Today, on October 29, 2025, Petitioner attended a 7am interview with Citizenship and Immigration Services ("USCIS"), a separate DHS component, at its New York Asylum Office in Bethpage. She was told by our government that this interview represented the next step in her asylum application process.

4. Following Petitioner's interview, ICE used the opportunity to detain her without explanation. When pressed by an attorney accompanying Petitioner, ICE agents indicated that while it was unusual to detain someone with no criminal history in this manner, it was "just a sign of the times. The agents stated they were unable to consider any less restrictive alternatives to detention, such as GPS monitoring. On information and belief, ICE has taken no steps to explain or justify its revocation of Petitioner's release on parole, and no changed circumstances exist that would justify her re-detention.

5. Pursuant to 28 U.S.C. § 2243, Petitioner requests that the Court issue an Order to Show Cause directing the Government to file a return "within three days[,] unless for good cause additional time, not exceeding twenty days, is allowed," justifying its unexplained decision to detain her in apparent excess of statutory authority.

6. If ICE cannot point to any justification for its unexplained decision to re-detain Petitioner, then her re-detention is violative of due process and she should be immediately released. At the absolute minimum, the Court should order that she be afforded a bond hearing at which ICE must justify her continued detention by clear and convincing evidence.

JURISDICTION

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

8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), and 28 U.S.C. 1331 (federal question).

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

VENUE

10. Venue is proper because, on information and belief, Petitioner is detained in Nassau County, New York, which is within the territorial jurisdiction of this Court.

PARTIES

11. Petitioner is an Ecuadoran national who has applied for asylum in the United States. She was paroled into the United States by immigration authorities on September 14, 2021, in order to apply for asylum. At the time of her detention by ICE, she was residing in Brooklyn with her husband and [redacted] son, who is a United States citizen.

12. Judith Almodovar is the Acting Director of ICE's New York Field Office. In her official capacity, she is charged with carrying out the functions of that office, including by making and overseeing decisions regarding immigration detention throughout New York City's five boroughs and various other counties, including Nassau County. She therefore has constructive custody over Petitioner, in that she can order her release from ICE custody.

13. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"), which is ICE's parent agency. In her official capacity, she oversees and directs the activities of ICE, including its detention operations in California and elsewhere. She therefore has constructive custody of Petitioner, in that she can direct ICE to release her from custody.

14. Respondent Pamela Bondi is the Attorney General. In her official capacity, she is charged with making determinations as to removability, asylum eligibility, and immigration custody, all of which are binding on DHS and its components. She therefore has constructive custody of Petitioner, in that she has the capacity to compel ICE to release her.

STATEMENT OF FACTS

15. Petitioner fled Ecuador after experiencing severe gender-based violence. She subsequently entered the United States in September of 2021. On September 14, 2021, ICE paroled her from immigration custody "pending a final decision" on her asylum case. *See* Exh. A at 2 (Interim Notice Authorizing Parole). In the ordinary course, ICE places individuals paroled in this manner into removal proceedings before an immigration judge ("IJ"). *See id.* ("You have been released from service[1] custody pending a final decision in your exclusion/deportation[2] hearing."). But ICE never did that here, leaving Petitioner without a clear path forward.

16. Following her parole from custody, Petitioner took up residence in Glendale, and later Brooklyn, with her husband. On [redacted], the couple welcomed a son, [redacted]. Like many immigrants do, Petitioner found work as a housekeeper.

17. Upon obtaining legal representation, Petitioner attempted to apply for asylum with USCIS. *See* Exh. C (Receipt Notice). But USCIS dismissed the petition, explaining that Petitioner's "claim of fear w[ould] be considered by an asylum officer through the credible fear screening process." Exh. D (Notice of Dismissal of Form I-589).

18. In keeping "with the terms and conditions of [her] release," Petitioner "reported for . . . every appointment as directed." Exh. A at 1. This extended to attending her credible fear interview ("CFI") with USCIS, which Petitioner did on October 29, 2025. Following an emotional interview about the harm she experienced in Ecuador, Petitioner was escorted with her counsel into another room, and promptly detained by ICE. *See* Exh. E at ¶¶ 3–4 (Attorney Affirmation of

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[1] This would appear to be an archaic reference to the Immigration and Naturalization Service ("INS"), which prior to passage of the Homeland Security Act in 2002 carried out the functions which are today performed by ICE.

[2] "Exclusion" and "deportation" cases were subsumed together into "removal" proceedings by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Jonathan Lipsitz). When accompanying counsel "inquired about the reason for her detention, one of the officers acknowledged that it was unusual given her clean record and commented, "This is just a sign of the times.'" *Id.* at ¶ 5. Counsel "pleaded for an alternative to detention, such as an ankle monitor, emphasizing her family situation. The officer attempted to contact a supervisor to request release with a GPS monitor, but the request was denied." *Id.* at ¶ 7.

19. On information and belief, Petitioner has not received an individualized hearing before a neutral decisionmaker to assess whether her recent re-detention was warranted due to dangerousness or flight risk. Although an ICE officer indicated that Petitioner's likely destination is "Delaney," a New Jersey detention facility, *id.* at ¶ 9, there is every possibility that ICE may opt instead to transfer Petitioner to a far more remote facility beyond the reach of her family here in New York. *Cf., e.g.*, *Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025) (attempted transfer to ICE detention center in Louisiana); *Mahdawi v. Trump*, 136 F.4th 443 (2d Cir. 2025) (same).

LEGAL BACKDROP

20. "[C]ivil immigration detention is typically justified only when a noncitizen presents a risk of flight or danger to the community." *J.A.E.M. v. Wofford*, No. 25 Civ. 1380 (KES), 2025 WL 3013377, at *3 (E.D. Cal. Oct. 27, 2025) (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023)). "A protected liberty interest may arise from a conditional release from physical restraint. Even when a statute allows the government to arrest and detain an individual, a protected liberty interest under the Due Process Clause may entitle the individual to procedural protections not found in the statute." *Id.* (citation omitted) (citing *Young v. Harper*, 520 U.S. 143, 147–49 (1997)). "Due process 'is a flexible concept that varies with the particular situation.' The procedural protections required in a given situation are

evaluated using the *Mathews v. Eldridge* factors." *Id.* at *6 (quoting *Zinermon v. Burch*, 494 U.S. 113, 127 (1990), which in turn cites 424 U.S. 319, 335 (1976)).

21. "The Second Circuit has held that the *Mathews v. Eldridge* three-factor balancing test applies when determining the adequacy of process in the context of civil immigration confinement." *Artiga v. Genalo*, No. 25 Civ. 5208 (OEM), 2025 WL 2829434, at *8 (E.D.N.Y. Oct. 5, 2025) (citing *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). "The determination of what procedures are required under the Fifth Amendment requires consideration of: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." *Id.* (citing *Mathews*, 424 U.S. at 335).

22. Beginning in May of this year, ICE has pursued an aggressive new enforcement campaign targeting people who are in removal proceedings at their homes, places of business, and even as they attended mandatory immigration court hearings or other immigration appointments. Individuals have been arrested seemingly without regard to whether they have pending applications for asylum or other relief. This "coordinated operation" is "aimed at dramatically accelerating deportations."[3] These aggressive tactics appear to be motivated by the imposition of a daily quota of 3,000 ICE arrests.[4] In part as a result of this campaign, ICE's arrests of noncitizens

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[3] Arelis R. Hernández and Maria Sacchetti, "Immigrant Arrests at Courthouses Signal New Tactic in Trump's Deportation Push," *Washington Post* (May 23, 2025), *available at* www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/; *see also* Hamed Aleaziz, Luis Ferré-Sadurní, and Miriam Jordan, "How ICE is Seeking to Ramp Up Deportations Through Courthouse Arrests," *N.Y. Times* (May 30, 2025), *available at* www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html.

[4] Ted Hesson and Kristina Cooke, "ICE's Tactics Draw Criticism as it Triples Daily Arrest Targets," *Reuters* (Jun. 10, 2025), *available at* www.reuters.com/world/us/ices-tactics-draw-

with no criminal record have increased more than 800% since before January.[5] It represents a stark departure from the government's prior practice of re-detaining noncitizens only after a material change in circumstances such as a criminal arrest. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice).

23. At the same time, the Board of Immigration Appeals ("BIA") has advanced novel interpretations of the immigration detention statutes. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), it held for the first time that individuals who (like Petitioner) were paroled into the United States without first receiving a CFI, remained subject to mandatory detention under section 235 of the INA, 8 U.S.C. § 1225, regardless of how much time had passed since their initial entry. Shortly thereafter, it expanded its mandatory detention rule to cover all persons present in the United States without admission, irrespective of their time and manner of entry. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).[6]

24. "In recent months, many district courts across the country have grappled with the [] issue, and it appears that all but one of them has rejected [ICE's] position and concluded that an alien in Petitioner's situation (i.e., an alien who entered the United States without inspection, never formally applied for admission, and has been living in the United States for years or decades) is entitled to a bond hearing under § 1226(a)." *Echevarria v. Bondi*, No. 25 Civ. 3252 (DWL), 2025

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criticism-it-triples-daily-arrest-targets-2025-06-10/.

[5] José Olivares and Will Craft, "ICE Arrests of Migrants with No Criminal History Surging under Trump," *The Guardian* (Jun. 14, 2025), *available at* www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures.

[6] Given the existence of these precedents, any attempt at administrative exhaustion would be futile. Additionally, Petitioner cannot file a bond request because, as of this writing, ICE has not revealed the location of her detention, information without which counsel cannot identify the proper immigration court or pursue any custody motion before an IJ.

WL 2821282, at *4 (D. Ariz. Oct. 3, 2025) (citing *Hasan v. Crawford*, 25 Civ. 1408 (LMB), 2025 WL 2682255 at *9 (E.D. Va. Sep. 19, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D. Wash. 2025); *Pizarro Reyes v. Raycraft*, No. 25 Civ. 12546 (RJW), 2025 WL 2609425, *7 (E.D. Mich. Sep. 9, 2025); *Barrera v. Tindall*, No. 25 Civ. 541 (RGJ), 2025 WL 2690565, *5 (W.D. Ky. Sep. 19, 2025); *Vazquez v. Feeley*, No. 25 Civ. 1542 (RFB), 2025 WL 2676082, *16 (D. Nev. Sep. 17, 2025)). "The one apparent exception is *Chavez v. Noem*, which recently concluded that 'aliens present in the United States who have not been admitted' are, '[b]y the plain language of § 1225(a)(1), . . . applicants for admission and thus subject to the mandatory detention provisions of 'applicants for admission' under § 1225(b)(2).'" *Id.* (quoting No. 25 Civ. 2325 (CAB), 2025 WL 2730228, at *4 (S.D. Cal. Sep. 24, 2025)) (alterations in *Echevarria*).

25. Courts in this district have not bucked the overall trend. *See, e.g.*, *Hyppolite v. Noem*, No. 25 Civ. 4304 (NRM), 2025 WL 2829511, at *12 (E.D.N.Y. Oct. 6, 2025) ("Indeed, in the approximately two and one-half-months since Respondents began to broadly invoke § 1225(b)(2)(A) to justify the mandatory detention of noncitizens who already reside within the United States, well over a dozen federal courts around the country have rejected Respondents' novel and illogical interpretation of the INA." (collecting cases)); *Artiga*, 2025 WL 2829434, at *7 ("Respondents' construction of § 1225(b)(2)(A) disregards the plain meaning of that provision, would render § 1226 and a recent amendment to it superfluous, and is inconsistent with Supreme Court's prior statutory interpretations." (citing *J.U. v. Maldonado*, No. 25 Civ. 4836 (OEM), 2025 WL 2772765, at *7 (E.D.N.Y. Sept. 29, 2025))).

FIRST CLAIM FOR RELIEF
Violation of Fifth Amendment Right to Due Process

26. Petitioner hereby repeats and realleges all preceding allegations in the instant Petition as if fully set forth herein.

27. Applying the *Mathews* factors in this case, Petitioner's unexplained re-detention violates due process, and she is entitled to release pending a pre-deprivation bond hearing.

28. "With respect to the first prong of the *Mathews* test, Petitioner invokes 'the most significant liberty interest there is—the interest in being free from imprisonment.'" *Artiga*, 2025 WL 2829434, at *8 (quoting *Velasco Lopez*, 978 F.3d at 851, which in turn cites *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). "A person's liberty cannot be abridged without 'adequate procedural protections.'" *Id.* (quoting *Zadvydas*, 533 U.S. at 690). Petitioner received *no* process whatsoever prior to her re-detention—indeed, even the arresting ICE agents seemed perplexed as to how or why the decision had been made. "And no process at all is plainly inadequate." *Savane v. Francis*, No. 25 Civ. 6666 (GHW), 2025 WL 2774452, at *10 (S.D.N.Y. Sep. 28, 2025).

29. "With respect to the second prong of the *Mathews* test, the record demonstrates that no individualized determination was made prior to or contemporaneously with the decision to detain Petitioner in [October] 2025, and there was no change in circumstances between the time DHS released Petitioner on [parole] to h[er] re-arrest and detention. Thus, the risk of erroneous deprivation of Petitioner's liberty interest is high. *Artiga*, 2025 WL 2829434, at *9 (citations omitted).

30. "Third, although the government has a strong interest in enforcing the immigration laws, the government's interest in detaining petitioner without a hearing is 'low.'" *J.A.E.M.*, 2025 WL 3013377, at *7 (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019)). "In immigration court, custody hearings are routine and impose a 'minimal' cost." *Id.* (quoting *Doe v.*

Becerra, No. 25-Civ. 647 (DJC), 2025 WL 691664, at *6 (E.D. Cal. Mar. 3, 2025)). "If the government wishes to re-arrest [petitioner] at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing is low." *Id.* (quoting *Ortega*, *supra*) (alteration in *J.A.E.M.*). Petitioner "has family ties in New York, never violated the terms of h[er] bond, . . . and has had no criminal history." *Artiga*, 2025 WL 2829434, at *9. "There is no evidence that Petitioner posed a risk of flight or danger to the community sufficient to justify h[er] detention. Thus, Respondents have failed to show a significant interest in Petitioner's continued detention." *Id.*

31. As in other recent cases that have come before this Court, "Respondents' ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates [her] due process rights." *Artiga*, 2025 WL 2829434, at *9 (citing *J.U.*, 2025 WL 2772765, at *10). "Given the absence of any deliberative process prior to or contemporaneous with the deprivation of Petitioner's liberty, formerly granted and approved by Respondents, a writ of habeas corpus is the only form of relief and the most appropriate remedy." *Id.*

SECOND CLAIM FOR RELIEF
Violation of Section 236(a) of the INA, 8 U.S.C. § 1226(a)

32. Petitioner hereby repeats and realleges all preceding allegations in the instant Petition as if fully set forth herein.

33. ICE has taken the position that individuals like Petitioner are subject to mandatory detention under 8 U.S.C. § 1225. *See Matter of Q. Li*, *supra*; *Matter of Yajure Hurtado*, *supra*. Because such a reading of the statute "(1) disregards the plain meaning of section 1225(b)(2)(A); (2) disregards the relationship between sections 1225 and 1226; (3) would render a recent amendment to section 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice," *Lepe v. Andrews*, No. 25 Civ. 1163 (KES), 2025 WL 2716910, at *4

(E.D. Cal. Sep. 23, 2025), the Court should reject it, as a near-unanimous chorus of district judges throughout the Nation have done.

34. And because Petitioner's re-detention was carried out pursuant to this flawed reading of the INA, it should be considered unreasonable *ab initio* and the Government should be ordered to release Petitioner immediately. *See id.* at *10 (ordering immediate release); *Sabi Polo*, 2025 WL 2959346, at *14 (same); *Ortiz Donis*, 2025 WL 2879514, at *15 (same); *J.A.C.P.*, 2025 WL 3013328, at *8 (same).

35. At a bare minimum, and in the alternative, the Court should declare that Petitioner's custody is governed by 8 U.S.C. § 1226(a), and direct the Government to provide her with a bond hearing before an IJ where it must establish by clear and convincing evidence that Petitioner's ongoing detention is justified.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court:

(1) Assume jurisdiction over this petition;

(2) Direct Respondents to show cause within three days (or in no event more than twenty days) why the Petition should not be granted;

(3) Declare Petitioner's ongoing detention to be violative of 8 U.S.C. § 1226 as well as the Due Process Clause of the Fifth Amendment;

(4) Issue a preliminary injunction or writ of habeas corpus directing Respondents to immediately release Petitioner, or at minimum afford her a bond hearing; and

(5) Provide such other relief as the Court deems just and proper.

Dated: October 29, 2025
Brooklyn, New York

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

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

Dated this 29th day of October, 2025.

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Table of Exhibits

Exh. A: Interim Notice Authorizing Parole (Sep. 14, 2021)

Exh. B: New York State Birth Certificate of Petitioner's Son (Sep. 26, 2022)

Exh. C: USCIS Receipt Notice for Form I-589 (Oct. 7, 2024)

Exh. D: Notice of Dismissal of Form I-589 (Jun. 13, 2025)

Exh. E: Attorney Affirmation of Jonathan Lipsitz (Oct. 29, 2025)