

Julio J. Ramos (SBN. 189944)
LAW OFFICES OF JULIO J. RAMOS
35 Grove St, Suite 107
San Francisco, California 94102
Telephone: (415) 948-3015
Email: ramoslawgroup@yahoo.com

Attorney For Petitioner Jaqueline Antonia Maconel-Arguello

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JAQUELINE ANTONIA MACONEL-
ARGUELLO,

Petitioner,

- against -

CHRISTOPHER CHESTNUT, in his official
capacity as Warden California City Correctional
Facility;

POLLY KAISER, Acting Field Office Director
of the San Francisco Immigration and Customs
Enforcement Office

TODD M. LYONS, in his official capacity as
Acting Director, U.S. Immigration and Customs
Enforcement;

KRISTI NOEM, in her official capacity as
Secretary, U.S. Department of Homeland Security;

PAMELA BONDI, in her official capacity as
Attorney General of the United States.D

Respondents

Case No.: **1:25-cv-01588 (KES)(EPG)**

**TRAVERSE IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS**

TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1
2 1. Respondents' opposition confirms that Petitioner's re-detention violates the
3 Constitution. This Court must grant a writ of habeas corpus if Petitioner "is in custody in violation
4 of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241. The government
5 reiterates a novel legal theory regarding the mandatory detention of aliens physically present in
6 the interior of the United States and that despite no change in circumstances to the Petitioner in
7 this case she is subject to mandatory detention. The government's theory as of July 8, 2025
8 posits, that aliens similarly situated to the Petitioner here must be detained pursuant to 8 U.S.C.
9 § 1225(b)(2). (Opp. LL 10-17, p. 6). Nearly all district courts that have considered the issue have,
10 rejected the Government's interpretation of section 1225(b)(2) as mandating detention pending
11 removal proceedings. *See, e.g., Salcedo Aceros v. Kaiser*, No. 25-cv-06924, 2025 U.S.
12 Dist. LEXIS 179594, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Jimenez v. FCI Berlin*, No.
13 25-cv-00326, ECF No. 16, 2025 U.S. Dist. LEXIS 176165 (D.N.H. Sept. 8, 2025); *Martinez v.*
14 *Hyde*, No. CV 25-11613, 2025 U.S. Dist. LEXIS 141724, 2025 WL 2084238 (D. Mass. July 24,
15 2025); *Gomes*, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299; *Lopez Benitez v. Francis*, No.
16 25 CIV. 5937, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588 (S.D.N.Y. Aug. 13,
17 2025); *Rosado v. Figueroa*, No. CV 25-02157, 2025 U.S. Dist. LEXIS 156344, 2025 WL
18 2337099 (D. Ariz. Aug. 11, 2025), *R&R adopted [*17] sub nom. Rocha Rosado v. Figueroa*,
19 No. CV-25-02157, 2025 U.S. Dist. LEXIS 156336, 2025 WL 2349133 (D. Ariz. Aug. 13,
20 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1256 (W.D. Wash. 2025).
21
22
23
24
25

26 **TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

1 2. Petitioner is a female Nicaraguan asylum seeker who received a positive credible-
2 fear determination, she timely filed a defensive asylum application and possesses valid
3 employment authorization. The government ignores these facts and also implies that due process
4 does not apply to Petitioner in this case.
5

6 3. For nearly three years, she lived and worked in Seaside, California under parole
7 and ISAP/Smart LINK supervision with no criminal record and has substantially complied with
8 all her reporting requirements pending the adjudication of her asylum application. She is way
9 beyond the threshold of entry into the United States. *Doe v. Becerra*, 787 F.Supp.3d 1083, 1093
10 (E.D. Cal. Mar. 3, 2025) ("[I]ndividuals who have been released from custody, even where such
11 release is conditional, have a liberty interest in their continued liberty.").

12
13 4. On October 28, 2025, she appeared for a routine ISAP check-in in San José and
14 was immediately taken into ICE custody and is currently detained at California City Corrections
15 Center. She received no prior notice and no bond hearing before a detached judicial
16 decisionmaker.
17

18 5. Respondents allege that Petitioner is detained under 8 U.S.C. § 1225(b)(2) as an
19 "applicant for admission" who may be held without a hearing, and on a line of Supreme Court
20 decisions concerning initial exclusion and expedited removal of noncitizens apprehended at the
21 threshold of entry into the territorial heartland. In contrast, the Petitioner in this case has lawfully
22 lived, worked and become a member of the community and is thus entitled to constitutional
23

24
25
26 **TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

1 protections distinguishable and greater than a threshold entrant. Despite this, ICE has revoked
2 her long-standing parole and re-incarcerated her in a detention facility.

3 6. The government's own declarant, DO Patrick Cruz, offers no contemporaneous
4 explanation for re-detention in this case. His declaration and the attached I-213 do not mention
5 SmartLINK at all; do not identify any specific alleged "violations;" and do not assert that
6 Petitioner has ever been found dangerous or likely to flee. They simply state that she appeared
7 for her scheduled ISAP check-in on October 28, 2025, and that ICE re-detained her. That silence
8 is telling because Respondents have not come forward with any reasoned justification for
9 revoking Petitioner's liberty, i.e. changed circumstances that would justify re-detention.
10

11 7. Courts across the country—including recently in *Tellez v. Bondi*, No. 25-cv-08982
12 2025 LX 547713 pp. 18-19. (N.D. Cal. Dec. 18, 2025)—have rejected the interpretation of §
13 1225(b)(2) that Respondents press here and have held that noncitizens who, like Petitioner, were
14 allowed to live for years in the heartland on parole or ATD possess a significant liberty interest
15 in remaining at liberty:
16
17

18 Perhaps most significantly, interpreting § 1225(b)(2) to encompass all "applicants for
19 admission" would have the effect of nullifying including a subsection in § 1226 added by
20 Congress just this year. That subsection was amended by the Laken Riley Act, Pub. L.
21 No. 119-1, § 2, 139 Stat. 3, 3 (2025) (adding 8 U.S.C. § 1226(c)(1)(E)), which added a
22 specific ground on which the government must detain a noncitizen.

23 8. Nothing in Respondents' opposition papers justifies Ms. Maconel-Arguello's loss
24 of liberty and the Court should order her release. the government's papers do not even mention
25 recent decisions of the United States District Court for the District of Columbia applying

26 **TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

1 nationwide stays on the application of expedited removal to paroled aliens residing within the
2 interior of the United States. "The Court concurs with other courts that have found that section
3 1225(b)(1) "does not authorize designation for expedited removal of any noncitizen who has, at
4 any point in time, been paroled into the United States." *See Coal. for Humane Immigrant Rts. v.*
5 *Noem*, No. 25-cv-872, 2025 U.S. Dist. LEXIS 148615, 2025 WL 2192986, at *21-27 (D.D.C.
6 Aug. 1, 2025) ("*Coalition*"); *see also Castellon*, 2025 U.S. Dist. LEXIS 157841, 2025 WL
7 2373425, at *9. Nor does the routine termination of parole permit noncitizens to be subject to
8 expedited removal again. *Coalition*, 2025 U.S. Dist. LEXIS 148615, 2025 WL 2192986, at
9 *23. All parole will eventually be terminated or expire. *Id.* However, termination of parole does
10 not generally require treating noncitizens as if they had never been paroled in the first place. *See*
11 *id.* (explaining that when a noncitizen's parole terminates, they are still treated as having been
12 paroled when applying for adjustment of status, pursuant to 8 C.F.R. § 245.1(b)(3)).

13
14
15 Thus, under the plain meaning of section 1225(b)(1), Petitioner no longer qualifies for
16 expedited removal because she was "paroled" into the United States and has been living and
17 working in the United States for three years. *Aviles-Mena v. Kaiser*, 2025 U.S. Dist. LEXIS
18 173976, *10, 2025 LX 303289, 2025 WL 2578215.

19 20 ARGUMENT

21 **I. RESPONDENTS' OPPOSITION CONFIRMS NO JUSTIFICATIONS FOR RE-** 22 **DETENTION.**

23 24 25 26 **TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

A. The Cruz Declaration Confirms Petitioner's Compliance and the Wrongful Nature of Her Re-Detention.

9. Respondents' opposition relies heavily on the declaration of Deportation Officer Patrick J. Cruz and the attached I-213. But that declaration confirms the key facts supporting Petitioner's claims of wrongful deprivation of liberty.

10. Cruz acknowledges that Petitioner is a Nicaraguan national who entered near Eagle Pass, Texas in October 2022, expressed a fear of return, and was initially processed for expedited removal.

11. He further attests that DHS issued her a parole notice, released her from custody, and later served her with a Notice to Appear placing her into full § 240 removal proceedings, where she continues to pursue defensive asylum with an individual hearing scheduled for January 14, 2026. Cruz Decl. ¶¶ 5–9. He does not suggest that she has any derogatory record. To the contrary, the I-213 shows a negative immigration record and contains no criminal charges beyond inadmissibility grounds. Ex. 1 to Cruz Decl. (I-213).

12. Most importantly, Cruz's declaration describes Petitioner's re-detention in a single sentence: that on October 28, 2025, she appeared at the ISAP office for her scheduled check-in and that "that same day, ICE took her into custody." Cruz Decl. ¶ 10. The declaration does not mention SmartLINK by name; does not identify any specific alleged violation of ISAP conditions; does not say who made the decision to revoke her parole; and does not assert that any officer found her dangerous or unlikely to appear. This conspicuous silence underscores

TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Petitioner's showing that ICE re-incarcerated her based on untested, unilateral/arbitrary enforcement determinations and without any meaningful due process. "Petitioner's status as a person who has been living and working in this country for nearly two years counsels against this expanded view of the Immigration and Nationality Act as amended. *See, e.g., Salgado v. Mattos*, No. 2:25-cv-01872-RJB-EJY, 2025 U.S. Dist. LEXIS 225122, 2025 WL 3205356, at *20 (D. Nev. Nov. 17, 2025) ("By subjecting noncitizens like Petitioners to mandatory detention, despite their significant due process rights as individuals present in the U.S., with no consideration of their deep financial, community, and familial ties in the country, the government has proffered an interpretation of a federal statute that engenders constitutional issues" (citation modified)). "The federal courts have uniformly held that § 1225(b) does not apply to noncitizens," like Petitioner, "who are present within the United States with the government's permission and have been residing in the interior of the United States for several years." *David Rivas, Warden of the San Luis Det. Ctr.*, No. CV 25-02943 PXS GMS (CDB), 2025 U.S. Dist. LEXIS 200981, 2025 WL 2898389, at *22 (D. Ariz. Oct. 7, 2025)" *M.Z.H. v. Hermosillo* (W.D.Wash. Dec. 23, 2025, No. C25-2523-KKE) 2025 U.S. Dist. LEXIS 265353, at *7-8.)

B. Respondents' New § 1225(b)(2) Theory Conflicts with the Statute's Text

13. Section 1226(a) is the default detention authority for noncitizens in § 240 removal proceedings, authorizing ICE to arrest and detain "pending a decision on whether the alien is to be removed from the United States" and allowing release on bond or conditional parole. Section 1226(c) imposes mandatory detention for a limited criminal subset of that group. Section 1225(b),

TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

1 by contrast, governs initial processing of applicants for admission—principally recent arrivals
2 and arriving aliens at ports of entry—and directs detention during that inspection process.
3 Reading § 1225(b)(2) to cover every noncitizen who was ever “an applicant for admission,” no
4 matter how many years he or she has lived in the interior or how long ago that initial inspection
5 ended, would allow § 1225(b)(2) to swallow § 1226(a) almost entirely, leaving the latter nullified.
6

7 **II. THE COURT SHOULD APPLY *MATHEWS* v. *ELDRIDGE***

8 **A. Petitioner Has a Strong Liberty Interest After Nearly Three Years of Parole**
9 **and ATD Supervision.**

10
11 14. Petitioner having been released on parole/ATD and have lived for years in the
12 community possess a weighty liberty interest in remaining free from re-detention this fact places
13 her far from the “threshold of initial entry” paradigm invoked in *Thuraissigiam*.

14 **B. ICE’s Procedures Create an Unacceptably High Risk of Erroneous**
15 **Deprivation.**

16
17 16. Respondents’ papers only heighten the concern that Petitioner’s liberty was
18 revoked based on a serious risk of error. The Cruz Declaration does not describe any
19 individualized assessment of Petitioner’s circumstances, does not identify any finding that she is
20 dangerous or likely to flee, and does not mention the SmartLINK application or any supposed
21 “administrative violations” that officers told Petitioner were the basis for her arrest.
22

23 17. Without prior notice of alleged parole violations, disclosure of the evidence, or a
24 chance to be heard before a neutral adjudicator, Petitioner had no meaningful opportunity to
25

26 **TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

1 establish that she remained a suitable candidate for continued conditional release. The risk that
2 she has been erroneously re-detained—based on technological glitches or minor
3 misunderstandings rather than genuine noncompliance—is substantial.

4
5 18. The court in *Llanes Tellez*, applying Mathews, found that similar re-detention
6 procedures posed an unacceptably high risk of error and that a prompt custody hearing would
7 significantly reduce that risk at modest cost to the government. That conclusion is equally
8 warranted here.

9
10 **C. The Government’s Interest in Bypassing a Hearing Is Minimal.**

11 19. Respondents identify no specific reason why Petitioner must be detained rather
12 than supervised in the community. They do not claim that she has ever harmed anyone,
13 committed a crime, or missed a hearing. They do not dispute that she lived for nearly three years
14 under supervision without incident. Their asserted interest is simply “enforcing § 1225(b)(2).”

15 20. But as other courts have observed, the government has no legitimate interest in
16 detaining individuals who have been deemed safe to release, who have complied with supervision
17 for years, and whose appearance can be ensured through alternatives to detention. The same is
18 true here. Requiring a brief, prompt custody hearing at which the government must justify
19 detention under a clear- and-convincing standard and the adjudicator must consider less
20 restrictive options imposes only a modest administrative burden—especially compared to the
21 severe deprivation at stake.
22
23

24 **D. Re-Detention of Supervised Asylum Seekers.**

25
26 **TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

1 21. Respondents argue that as an “applicant for admission,” Petitioner has no due
2 process rights beyond whatever procedures Congress chose to provide in § 1225. That sweeping
3 contention cannot be reconciled with modern Supreme Court precedent. *Zadvydas* squarely held
4 that the Due Process Clause protects all “persons” within the United States, regardless of
5 immigration status. Respondents’ suggestion that Petitioner’s detention is constitutionally
6 insignificant because it has lasted only “several weeks” ignores both the nature of the harm and
7 the realities of immigration proceedings. Every additional day she spends in jail-like conditions
8 is a day of lost liberty that cannot be compensated later. Her detention has disrupted her ability
9 to support her children and mother in Nicaragua, and caused substantial emotional distress. It
10 also impairs her capacity to prepare and present her asylum claim.

11
12
13 22. Moreover, there is no guarantee that her detention will be brief. Without judicial
14 intervention, she could remain incarcerated throughout the remainder of her immigration
15 proceedings and any appeals—a period that could last many months or longer. Courts have
16 repeatedly held that such confinement constitutes irreparable harm.

17
18 **E. The Balance of Equities and Public Interest Still Strongly Favor Relief.**

19 23. Respondents identify no concrete harm that would result from releasing Petitioner
20 under reasonable conditions of supervision, or from providing her a prompt custody hearing. By
21 contrast, the harms to Petitioner are severe and ongoing. The balance of equities therefore tips
22 sharply in her favor.

23
24
25
26 **TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

24. The public interest is likewise served by ensuring that the government respects constitutional limits and that civil immigration detention is used only when necessary and justified. Allowing ICE to re-detain previously compliant, non-dangerous asylum seekers based on opaque and potentially faulty SmartLINK data, without any opportunity for neutral review, undermines confidence in the immigration system and risks arbitrary deprivation of liberty. Enjoining that practice in Petitioner's case promotes fairness, transparency, and adherence to the rule of law.

III. CONCLUSION

25. Petitioner respectfully maintains her request for immediate release from civil immigration detention under reasonable conditions of supervision.

The government relies on a BIA decision, *Matter of Jonathan Javier Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025)). The BIA opinion has not been held as persuasive "the well-reasoned decisions of the many district courts that have rejected the Government's expansive view of 1225(b)(2) far more persuasive than the new BIA ruling, a ruling at odds with its prior decisions and DHS's actions over the past thirty years." *Salcedo Aceros*, 2025 WL 2637503, at *12.

Dated: December 31, 2025, San Francisco, California

Respectfully Submitted,

JULIO J. RAMOS

/s/ Julio J. Ramos

TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS