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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

MEHAK MEHAK

Petitioner,

v.

Case No. 3:26-cv-00024

MARY DE ANDA-YBARRA;
In her official capacity as the El Paso
Field Office Director, U.S. Immigration
& Customs Enforcement

PETITIONER'S BRIEF

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

TODD M. LYONS,
In his official capacity as Acting Director
Of Immigration & Customs Enforcement;
and,

PAMELA BONDI,
In her official capacity as Attorney General,
U.S. Department of Justice,

Respondents.

Pursuant to this Court's January 30, 2026 Order Court's, Order dated January 20, 2026, Petitioner submits this supplemental brief addressing (1) whether she was arrested "on a warrant issued by the Attorney General"; (2) if not, how she is eligible for bond under 8 U.S.C. § 1226; and (3) if not eligible under § 1226, how habeas relief remains available.

I. Petitioner Was Not Arrested on a Warrant Issued Under § 1226(a)

Petitioner was arrested on December 8, 2025, during a scheduled ICE reporting appointment. No Form I-200 administrative warrant was issued prior to arrest, and none was served contemporaneously. Her detention therefore was not effectuated “on a warrant issued by the Attorney General” as required by 8 U.S.C. § 1226(a).

Section 1226(a) is the only INA provision that expressly authorizes interior arrest during pending removal proceedings, and it conditions that authority on issuance of a warrant. The Fifth Circuit has repeatedly emphasized that immigration detention authority must derive from the precise statutory provision invoked by the Government and must conform to the statutory structure enacted by Congress. See *Zadvydas v. Davis*, 185 F.3d 279, 287–88 (5th Cir. 1999), *aff’d*, 533 U.S. 678 (2001) (interpreting detention authority strictly according to statutory text); *Gonzales v. O’Connell*, 355 F.3d 1010, 1013 (5th Cir. 2004) (recognizing habeas review over detention authority under the proper INA provision).

Because no warrant was issued, Petitioner was not arrested pursuant to § 1226(a).

II. Petitioner Was Not Placed in Expedited Removal

Petitioner was apprehended near the border but was not processed under expedited removal pursuant to 8 U.S.C. § 1225(b)(1). DHS did not issue a Form I-860, nor did it subject her to summary expedited removal procedures. Instead, DHS exercised its discretion to issue a Notice to Appear and placed her into full removal proceedings under 8 U.S.C. § 1229a/ INA § 240 removal proceedings.

The Fifth Circuit has recognized that expedited removal and § 240 removal proceedings are distinct statutory tracks with materially different procedural consequences. See *Efe v. Ashcroft*, 293 F.3d 899, 903–04 (5th Cir. 2002) (distinguishing expedited removal from full removal

proceedings); *Martinez v. Mukasey*, 519 F.3d 532, 540–41 (5th Cir. 2008) (analyzing detention authority under specific INA provisions and recognizing structural differences between statutory detention schemes).

The Government’s position that Petitioner remains an “applicant for admission” under § 1225(b) addresses detention classification. It does not alter the procedural posture of her case. Being an applicant for admission does not, by itself, place an individual in expedited removal. Once DHS initiated § 240 proceedings and released Petitioner on recognizance, she became subject to the full removal process before an Immigration Judge, not the summary expedited removal scheme. That distinction is critical to the Court’s inquiry. The legality of Petitioner’s present detention must be evaluated in light of the statutory framework actually invoked—§ 240 proceedings—not a removal mechanism that was never used.

III. Section 1225(b) Does Not Supply Independent Interior Arrest Authority

Even assuming *arguendo* that the Fifth Circuit’s recent decision holds that individuals who entered without inspection remain “applicants for admission” under § 1225(b), that holding concerns detention classification, not arrest mechanism and constitutional safeguards.

Section 1225(b) states that certain applicants “shall be detained.” It does not contain language authorizing interior arrest or dispensing with § 1226(a)’s warrant requirement once § 240 proceedings have commenced and the individual has been released.

By contrast, § 1226(a) expressly governs arrest and detention “pending a decision on whether the alien is to be removed,” and expressly requires arrest “on a warrant issued by the Attorney General.” The statutory structure is deliberate. Where Congress includes arrest mechanics in one provision and omits them in another, courts presume the distinction intentional. See *Zadvydas*, 185 F.3d at 287 (analyzing detention provisions according to statutory structure).

Accordingly, if the Government contends that § 1226(a) does not apply because no warrant issued, that position highlights the statutory defect in the re-arrest. If instead the Government relies on § 1225(b), that provision cannot retroactively supply interior arrest authority in a case already placed into § 240 proceedings and released.

IV. Habeas Jurisdiction Exists Even If Bond Under § 1226 Is Unavailable

The Court further inquires how habeas relief remains available if Petitioner is not eligible for bond under § 1226 for want of a warrant. The Fifth Circuit has long recognized that 28 U.S.C. § 2241 provides jurisdiction to review the legality of immigration detention. See *Zadvydas*, 185 F.3d at 287–88; *Gonzales*, 355 F.3d at 1013.

Habeas review is not limited to bond eligibility determinations. It extends to whether detention is authorized by statute at all and whether it comports with constitutional limits. The Fifth Circuit in *Zadvydas* held that civil immigration detention is subject to due process constraints and cannot become arbitrary or indefinite. Thus, even if bond under § 1226 is unavailable, habeas remains the proper vehicle to test the legality of detention grounded in an asserted statutory provision that does not supply arrest authority.

V. Re-Detention After Release Raises Distinct Constitutional Concerns

This case does not involve initial border detention. Petitioner was released into the United States after being served with a Notice to Appear and placed in § 240 proceedings. She resided in the interior for over a year while her case proceeded. She complied with ICE reporting requirements and appeared at scheduled check-ins. She filed an asylum application pursuant to 8 U.S.C. § 1158, which remains pending. She was re-detained during a routine supervision appointment.

The Fifth Circuit has made clear that civil immigration detention must remain reasonably related to its regulatory purpose. *Zadvydas*, 185 F.3d at 287–88. Where an individual has been living in the community under supervision and is re-detained without individualized findings and without warrant authority, constitutional concerns arise that are distinct from inspection-stage detention. The Fifth Circuit’s recent statutory holding does not eliminate constitutional review of whether detention in this posture remains authorized and lawful.

VI. Conclusion

Petitioner respectfully submits that:

1. She was not arrested on a warrant issued under § 1226(a);
2. She was not placed in expedited removal but in full § 240 proceedings;
3. Section 1225(b) does not provide independent interior arrest authority following release; and
4. Under Fifth Circuit precedent, habeas jurisdiction remains available to review the legality of detention even if bond under § 1226 is unavailable.

Petitioner respectfully requests that the Court grant appropriate relief consistent with statutory structure and due process.

Dated: February 13, 2026
New York, New York

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February 2026, I electronically filed the foregoing Petitioner's Brief with the Clerk of Court using the CM/ECF system and served copies on Respondents via the U.S. Attorney's Office for the Western District of Texas.

/s/ Dalbir Singh

Dalbir singh, esq.