UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION
CIVIL No. _____

YUMISLEIDY TRUEBAS ALVAREZ Petitioner v. Warden of the Karnes County Detention Facility; MIGUEL VERGARA, in official capacity as Field Office Director of ICE Enforcement and Removal Operations San Antonio Field Office; KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; PAM BONDI, in her official capacity as Attorney General of the United States, Respondents.	§	**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C § 2241**

EMERGENCY VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I. INTRODUCTION

1. This case challenges an unlawful warrantless interior arrest and continued civil detention that exceed statutory authority and violate the Fourth and Fifth Amendments.

2. Petitioner voluntarily appeared at a scheduled ICE check-in and was seized without a judicial warrant, without probable cause, and without lawful detention authority.

3. ICE asserts mandatory detention under INA §1225, relying on Matter of Yajure Hurtado to label Petitioner an "applicant for admission."

4. That theory is statutorily incorrect, constitutionally infirm, and non-binding on this Court and the Fifth Circuit.

5. Because the arrest itself was unlawful, Petitioner seeks immediate injunctive relief and issuance of the writ.

II. JURISDICTION AND AUTHORITY

6. Jurisdiction lies under 28 U.S.C. § 2241 and 28 U.S.C. § 1331.

7. The Fifth Circuit recognizes habeas jurisdiction over challenges to the fact and legality of immigration detention, including constitutional claims. *See* Zadvydas v. Davis, 533 U.S. 678 (2001); Pierre v. United States, 525 F.2d 933 (5th Cir. 1976).

8. This Court has authority to issue a TRO to halt ongoing constitutional violations. *See* Opulent Life Church v. City of Holly Springs, 697 F.3d 279, 295 (5th Cir. 2012).

III. STATEMENT OF FACTS

9. Petitioner is a native of Cuba. She entered the U.S. on August 8, 2022. She applied for asylum and withholding of removal in 2023 and her case is currently pending before the Conroe Immigration Court. She was living openly in the United States, complying with supervision, and pursuing pending relief before USCIS and/or the Immigration Court.
10. Petitioner was released on an Order on Release on Recognizance, further proving that she is not an applicant for admission.

11. Petitioner was in lawful status and has an Employment Authorization Document (i.e. a work permit) valid through December 26, 2028, as well as a Texas Driver's License.

12. Petitioner voluntarily appeared at a scheduled ICE check-in on November 21, 2025.

13. ICE arrested Petitioner without a judicial warrant and without alleging danger or flight risk.
14. Petitioner has no criminal history in the U.S., nor in Cuba. She is not a danger to the community nor a flight risk, given her willing compliance with U.S. immigration laws in having attended her routine ICE check-in appointments.

15. ICE asserts detention authority solely under INA §1225 and Matter of Yajure Hurtado.

16. ICE has provided no bond hearing under INA §1226a and no neutral adjudication of detention authority.

17. She was initially detained and sent to Montgomery Processing Center but then transferred to Karnes County Detention Center in Karnes, City, Texas.

IV. LEGAL STANDARD FOR TRO

14. A TRO is warranted where the movant shows:

- likelihood of success on the merits,
- irreparable harm,
- balance of equities in the movant's favor,
- consistency with the public interest.

See Winter v. NRDC, 555 U.S. 7 (2008); Opulent Life Church, 697 F.3d at 295.

15. The Fifth Circuit holds that loss of liberty constitutes irreparable harm. *See* Texas v. United States, 809 F.3d 134, 155–56 (5th Cir. 2015).

V. LIKELIHOOD OF SUCCESS ON THE MERITS

A. Fourth Amendment — Unlawful Seizure

16. The Fourth Amendment applies to civil immigration arrests inside the United States.

17. Warrantless seizures are unreasonable absent probable cause and lawful statutory authority. *See* United States v. Brignoni-Ponce, 422 U.S. 873 (1975); Melendres v. Arpaio, 695 F.3d 990, 1000–01 (9th Cir. 2012).

18. The Fifth Circuit recognizes that civil detention unsupported by statutory authority violates the Fourth Amendment. *See* Vega v. United States, 881 F.3d 1146, 1153 (5th Cir. 2018).

19. Because INA §1225 does not apply, ICE lacked lawful authority—rendering the seizure per se unreasonable.

B. INA §1225 Does Not Apply to Interior Residents

20. Section 1225 governs inspection and detention of arriving aliens.

21. Congress separately addressed interior detention under INA §1226, confirming §1225's limited scope.

22. The Fifth Circuit has repeatedly distinguished arriving aliens from those already present in the United States. *See* Gisbert v. U.S. Attorney General, 988 F.2d 1437, 1441–42 (5th Cir. 1993).

23. Petitioner was not seeking admission and therefore cannot be detained under §1225.

C. Matter of Yajure Hurtado Is Not Binding

24. Yajure Hurtado is a BIA decision.

25. The Fifth Circuit holds that agency interpretations do not bind Article III courts, particularly where constitutional rights are implicated. *See* Texas v. United States, 787 F.3d 733, 749–50 (5th Cir. 2015).

26. No Fifth Circuit precedent adopts Yajure's expansion of §1225 to interior arrests.

27. ICE cannot rely on a non-binding agency opinion to justify warrantless detention.

D. Fifth Amendment — Procedural and Substantive Due Process

28. Civil detention must be accompanied by meaningful process. *See* Zadvydas, 533 U.S. at 690; Jennings v. Rodriguez, 138 S. Ct. 830 (2018).

29. The Fifth Circuit recognizes that prolonged detention without a hearing raises serious due-process concerns. *See* Hernandez v. Gonzales, 424 F.3d 42, 42–43 (5th Cir. 2005).

30. Detention based on an incorrect statutory classification is arbitrary and punitive, violating substantive due process.

VI. IRREPARABLE HARM

31. Each day of unlawful detention inflicts irreparable constitutional injury.

32. The Fifth Circuit recognizes that constitutional deprivations cannot be remedied by money damages. *See* Elrod v. Burns, 427 U.S. 347, 373 (1976).

VII. BALANCE OF EQUITIES & PUBLIC INTEREST

33. The government has no legitimate interest in unlawful detention.

34. The Fifth Circuit holds that the public interest favors constitutional compliance. *See* Jackson Women's Health Org. v. Currier, 760 F.3d 448, 458 (5th Cir. 2014).

VIII. REQUEST FOR RELIEF

Petitioner respectfully requests that the Court:

A. Grant a Temporary Restraining Order ordering immediate release;

B. Enjoin Respondents from enforcing INA §1225 against Petitioner;

C. Alternatively, order a bond hearing under INA §1226a within 7 days;

D. Issue the writ of habeas corpus;

E. Grant all other just relief.

VII. VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

/s/ Matthew Mendez
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Attorney for Petitioner

CERTIFICATE OF SERVICE

On January 16, 2026, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, MIGUEL VERGARA, in his Official Capacity as Field Office Director, of ICE Enforcement and Removal Operations Houston Field Office**, and **Respondent, Kristi Noem, in her Official Capacity as Director of U.S. Department of Homeland Security**, at (1) Office of the Field Office Director, Enforcement and Removal Operations, San Antonio Field Office, **1777 NE Loop 410, Floor 15,** San Antonio, Texas 78217.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

January 16, 2026
Date

CERTIFICATE OF SERVICE

On January 16, 2026, Counsel for Plaintiff served a copy of the attached Petition via email, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Pam Bondi, in her Official Capacity as Attorney General of the United States**, at **601 NW Loop 410, Suite 600,** San Antonio, Texas 78216.

/s/ Matthew Mendez
Matthew Mendez

January 16, 2026
Date