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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GRISELDA JULIAN-VASQUEZ,

Petitioner,

v.

ROSE THOMPSON, Warden,
Karnes County Immigration Processing Center;

MIGUEL VERGARA, Acting/Director
of the San Antonio Field Office U.S.
Immigration and Customs Enforcement;

TODD M. LYONS, Acting Director of
Immigration Customs Enforcement

KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; and

PAMELA BONDI, Attorney General
of the United States, in their official capacities,

Respondents.

Case No. 5:26-cv-00276

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Griselda Julian-Vasquez is in the physical custody of Respondents at the Karnes County Immigration Processing Center in Karnes City ***See* Exh. A, ICE Detainee Locator.** She now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner entered the United States in or around September 2001. This was her first and only entry into the United States. Petitioner has resided continuously in the United States for over twenty four years. She has been in DHS custody since December 21, 2025, with no foreseeable release date. DHS insists that its authority to detain her stems from 8 U.S.C. § 1225(b) and that she is therefore ineligible for a bond hearing. Petitioner contends that this assertion is legally incorrect. Nevertheless, the Executive Office for Immigration Review (EOIR) has validated this position in contravention of the plain text of the statute and decades of statutory interpretation and agency practice. *See Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

3. Federal district courts across the nation have reached a clear consensus: 8 U.S.C. 1225(b) does not apply to Petitioner's circumstances, and Respondents' reliance on this inapplicable statute renders her detention unlawful. Because Petitioner cannot be detained under Section 1225(b)(1) or Section 1225(b)(2), the only lawful basis for continued detention would be Section 1226—which provides for individualized bond determinations. However, Respondents do not assert they are detaining Petitioner under Section 1226. By detaining Petitioner under a statute that does not authorize her detention while simultaneously refusing to apply the statute that does, Respondents hold her in

unlawful custody. Petitioner is therefore entitled to immediate release.

4. The present petition filed on behalf of the Petitioner is one of a number of recent lawsuits challenging the federal government's authority to detain noncitizens during the pendency of removal proceedings under 8 U.S.C. § 1225(b). *See e.g. Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025), *Diaz Perez v. Thompson et al*, No. 5:25-CV-1664-JKP, 2025 WL 3654333 (W.D. Tex. Dec. 15, 2025), *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025). Indeed, most District Courts across the nation have agreed with the petitioners in similar cases[1].

5. Accordingly, to preserve Petitioner's statutory and constitutional rights, this Court should grant the instant petition for a Writ of Habeas Corpus for the reasons stated *infra*. Absent an order from this Court, Petitioner will continue to suffer an unconstitutional deprivation of her right to liberty, as well as extreme irreparable harm given the personal facts of her situation. Petitioner asks this Court to find that her detention is unconstitutional and order immediate release from detention.

JURISDICTION

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

7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*.,

[1] *Hundreds of judges reject Trump's mandatory detention policy, with no end in sight*, POLITICO (Jan. 5, 2026), https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494

the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

9. Petitioner challenges the legality of her detention as a violation of constitutional and statutory law. These claims fall squarely within the habeas jurisdiction of federal district courts. None of the jurisdiction-stripping provisions found at 8 U.S.C. § 1252(a)(2)(A), § 1252(g) and § 1252(b)(9) apply.

10. Federal district courts have consistently held that these jurisdictional bars do not preclude habeas review of the proper application of INA detention provisions. *See e.g. Hernandez Fernandez v. Lyons et al*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025), *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *2-4 (W.D. Tex. Oct. 16, 2025) (finding a case 'falls squarely outside' the jurisdictional bars where Petitioner was only 'challenging whether certain INA provisions require her detention without a bond hearing'); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *4 (W.D. Tex. Sept. 22, 2025) (rejecting government's jurisdictional arguments).

VENUE

11. Venue is proper with this Court because Petitioner is detained at Karnes County Immigration Processing Center, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding

twenty days, is allowed." *Id.* (emphasis added).

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

14. Petitioner, Griselda Julian-Vasquez, is a citizen of Mexico, who has resided in the United States since approximately September 2001. She is currently detained at the Karnes County Immigration Processing Center in Karnes, Texas.

15. Respondent Rose Thompson is the Warden of the Karnes County Immigration Processing Center and has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

16. Respondent Miguel Vergara is sued in his official capacity as the Acting Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent Vergara is a legal custodian of Petitioner and has authority to release her.

17. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

18. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency

responsible for Petitioner's detention / custody. Respondent Noem is a legal custodian of Petitioner.

19. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

20. Petitioner is a 45-year-old native and citizen of Mexico. She entered the United States on or around September 2001. This was her first and only entry into the United States. Petitioner has resided continuously in the United States for approximately twenty four years.

21. Petitioner resided in San Antonio, Texas with her three U.S. citizen children ages 21, 20, and 16. She was also living with her U.S. citizen spouse who passed away about three months ago. Petitioner and her U.S. spouse got married in 2009 and had been together for about eighteen years. She dedicated her life to care for her spouse and be by his side through his many health issues. About three months ago, her husband suffered a heart attack and passed away.

22. Before his passing, Petitioner's husband petitioned for her and the I-130, Petition for Alien Relative, was approved on July 15, 2019. ***See*** **Exh. B, I-130 Petition for Alien Relative Receipt.** Additionally, she had an I-601A, Provisional Unlawful Presence Waiver, approved on April 4, 2024. ***See*** **Exh. C, I-601A Provisional Unlawful Presence**

Waiver Receipt. Petitioner was anticipating proceeding with Adjustment of Status as the spouse of a U.S. citizen.

23. Petitioner was detained by Immigration and Customs Enforcement ("ICE") for the first and only time on or about December 21, 2025 after being stopped while driving for a non-moving traffic violation. The state trooper in turn contacted ICE to "[request] ICE's assistance in identifying" Petitioner and the others in the vehicle. ***See* Exh. D, Form 213 Record of Deportable/Inadmissible Alien.** On that same day, the Department of Homeland Security ("DHS") filed form I-862, Notice to Appear ("NTA") against Respondent to initiate removal proceedings. ***See* Exh. E, Notice to Appear.**

24. Despite her long-term presence, Petitioner anticipates that DHS is detaining Petitioner under 8 U.S.C. § 1225(b). Petitioner, however, was not apprehended at the border and does not fit the statutory definition of an 'applicant for admission' covered by § 1225(b) because, among other things, she was not "seeking admission" at the time of her detention by DHS.

25. Petitioner will not be released by DHS pursuant to the government's position asserting that neither DHS nor the EOIR have jurisdiction to release her. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

26. As a result, Petitioner now faces unlawful, indefinite detention absent intervention from this court.

LEGAL FRAMEWORK- 8 USC 1226 and 8 USC 1225

27. The Immigration and Nationality Act (INA) lays out three basic forms of detention for noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge

(IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2). Last, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

28. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2). The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025), which added section 1226(c)(1)(A) to the prior statutory framework. Following the enactment of IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Thus, in the decades that followed, most people who entered the U.S. without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed to

be "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

29. In July of 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who entered the United States without inspection or admission. Subsequently, on September 5, 2025 the Board of Immigration Appeals issued its precedent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), in which the Board held that all non-citizens who have not been inspected and admitted are "applicant(s) for admission" and are thus subject to the mandatory detention provision found in 8 U.S.C. § 1225(b)(1). In the decision, the Board applies highly questionable legal analysis and reasoning to arrive at its holding.

30. This interpretation defies the INA and Petitioner's right to Due Process pursuant to the Fifth Amendment of the U.S. Constitution. Respondents' new policy of summarily detaining all noncitizens who entered the U.S. at any time without being admitted or paroled turns well-established legal understanding and procedure on its head and violates the statutory scheme of the Immigration and Nationality Act. This unfounded legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings has already been rejected by "[m]ore than 300 federal judges" in "more than 1,600 cases"[2] who have rejected the application of § 1225(b)(2) to such cases.

31. First, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. Section 1226(a) applies by default to all persons

[2] *Hundreds of judges reject Trump's mandatory detention policy, with no end in sight*, POLITICO (Jan. 5, 2026), https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494

"pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). These removal hearings are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]." 8 U.S.C. § 1229a(a)(1).

32. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection and are present in the U.S. without authorization. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). 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.

33. By contrast, § 1225(b) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A). "Thus, for § 1225(b)(2)(A) to apply, several conditions must be met—in particular, an "examining immigration officer" must determine that the individual is: (1) an "applicant for admission"; (2) "seeking admission"; and (3) "not clearly and beyond a doubt entitled to be admitted." *See Martinez v. Hyde*, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025). In other words, this requires (a) having a particular status, namely that of being an "applicant for admission"; (b) an affirmative, present tense act, namely that of "seeking admission"; and (c) a contemporaneous determination in response to said act by an examining immigration official, namely a determination that one is not "entitled to be admitted."

34. The provision's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the implementing regulations at 8 C.F.R. § 1.2 addresses noncitizens who are presently "coming or attempting to come into the United States." The statutory and regulatory text's use of the present and present progressive tenses excludes noncitizens apprehended in the interior, because they are no longer in the process of arriving in or seeking admission to the United States. *See, e.g., Martinez,* 2025 WL 2084238 at *6 (citing the use of present and present progressive tense to support the conclusion that § 1225(b)(2) does not apply to individuals apprehended in the interior). Although the BIA's reasoning in *Yajure-Hurtado* draws from the Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018) the Supreme Court in *Jennings* recognized the above distinction, stating that § 1225 "applies primarily to aliens seeking entry into the United States." *Jennings, at 297*. The Supreme Court then notes that § 1226 "applies to aliens already present in the United States." *Id at 303.*

35. Second, traditional canons of statutory construction defy Respondents' position. Under "one of the most *basic* interpretive canons ... [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]" *Corley v. United States*, 556 U.S. 303, 314 (2009) (emphasis added). "This principle ... applies to interpreting any two provisions in the U.S. Code, even when Congress enacted the provisions at different times." *Bilski v. Kappos*, 561 U.S. 593, 607–08 (2010). Here, if the Respondents' position were correct, and § 1225's mandatory detention provisions apply to *all* inadmissible non-citizens then it would render superfluous provisions of 1226 that apply to certain categories of inadmissible

noncitizens. See § 1226(c)(1)(A), (D), (E). *See Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *18 (W.D. Wash. Sept. 30, 2025) ("Put another way, section 1226(c)(1)(E)'s mandated detention for inadmissible noncitizens who are implicated in an enumerated crime, including those "present in the United States without being admitted or paroled," would be meaningless since "all noncitizens who have not been admitted" would already be governed by 1225's mandatory detention authority.") (emphasis added). *See also Corley v. United States*, 556 U.S. 303, 314, n.5 (explaining that seemingly conflicting statutes read in isolation can be reconciled if read in their broader context, which includes observing the anti-superfluousness canon).

36. Third, the recent Laken Riley Act amendments lend further support for this unassailable reading of § 1226. "When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect." *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995). In January 2025, Congress passed the Laken Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025), which carved out an *additional* category of noncitizens from 1226(a)'s discretionary detention scheme. This category includes those noncitizens who are deemed inadmissible, including for being "present in the United States without being admitted or paroled," and who have been arrested, charged with, or convicted of certain crimes. § 1226(c)(1)(E). If § 1226(a) did not apply to noncitizens who are inadmissible for entering without having been admitted, then the added language applying § 1226(c)(1)(E) to those particular inadmissible noncitizens would render Congress' most recent amendments to the INA as surplusage. "These 'specific exceptions' for inadmissible noncitizens who are arrested, charged with, or convicted of the enumerated crimes logically leaves those inadmissible noncitizens not criminally implicated under Section 1226(a)'s default rule

for discretionary detention." *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *19 (W.D. Wash. Sept. 30, 2025). Reading § 1225(b) to cover everyone present without admission would nullify the newly added § 1226(c)(1)(E) and the long-standing authority of § 1226(a). Congress's decision to target only certain inadmissible non-citizens with specific criminal conduct for mandatory detention under § 1226(c)(1)(E) proves that the general rule under § 1226(a) applies to other inadmissible non-citizens. In sum, the statute can only be interpreted one way: 1225(b)(2)(A) applies to apprehensions at the border, while 1226(a) applies to apprehensions in the interior.

37. Fourth, Respondents' position is also in conflict with the legislative history of Section 1226(a). Upon passing IIRIRA, Congress declared that the new § 1226(a) "restates the current provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release on bond a[ ] [noncitizen] who is not lawfully in the United States." *See* H.R. Rep. No. 104-469, pt. 1, at 229; *see also* H.R. Rep. No. 104-828, at 210 (same). Similarly, in a 1997 interim rule issued "to implement the provisions of [IIRIRA]," the underlying EOIR federal register notice explains that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled…will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). "Because noncitizens arrested while unlawfully residing in the United States were entitled to discretionary detention under section 1226(a)'s predecessor statute, and Congress declared its scope unchanged by IIRIRA, this background supports the position" that Petitioner "is subject to discretionary detention." *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *23 (W.D. Wash. Sept. 30, 2025)

38. Overwhelmingly, "almost every district court to consider this issue has concluded, 'the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application for the past three decades" support finding that § 1226 applies to these circumstances." *See e.g. Alvarado-Luna v. Warden*, No. EP-25-CV-00565-DCG, (W.D. Tex. Dec. 29, 2025); *Luna-Arriaga v. Thompson*, No. 5:25-CV-1783-JKP, (W.D. Tex. Dec. 22, 2025); and *Buenrostro-Mendez v. Bondi,* No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) (citing *Pizarro Reyes*, 2025 WL 2609425, at *4). *See also Lopez-Arevelo*, 2025 WL 2691828, at *7 ("In recent weeks, courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect.").

DUE PROCESS

39. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003). "To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). Those factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335, 96 S.Ct. 893.
40. As to the first element, "'[t]he interest in being free from physical detention' is 'the most elemental of liberty interests.' " *Martinez v. Noem,* 2025 WL 2598379, at *2 (quoting

Hamdi v. Rumsfeld, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004)). Petitioner possesses a cognizable interest in his freedom from detention because he spent almost two years at liberty in the United States. *See Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11 (W.D. Tex. Sept. 22, 2025) ("Because he spent nearly three years at liberty in the United States, Lopez-Arevelo possesses a cognizable interest in his freedom from detention.")

41. Under the second *Mathews* factor, the Court considers "whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Martinez v. Noem*, 2025 WL 2598379, at *3 (quoting *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025)).

42. Here, the risk of erroneous deprivation of her liberty under the current procedures is extraordinarily high. Petitioner unquestionably has a due process right to her liberty, which may not be abridged absent adequate procedural protections. The Supreme Court has explained that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Due process requires that immigration detention "'bear[] a reasonable relation to the purpose for which the individual was committed.'" *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas*, 533 U.S. at 690). Specifically, immigration detention must be reasonably related to the government's goals of preventing flight and protecting the community from harm, and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91. There is a high risk that Petitioner has been and will continue to be erroneously deprived of his liberty, without regard to any

"reasonable relation" to any legitimate government purpose, and is therefore in violation of his right to substantive due process.

43. On the final factor, Respondents cannot identify any meaningful countervailing interest, other than perhaps their generalized interest in enforcing the INA as they interpret it.

44. "The appropriate relief for an immigration detainee held in violation of their right to due process is their immediate release from custody, and to be provided with relief returning them to *status quo ante*, i.e., the last uncontested status which preceded the pending controversy." *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025). "With regard to the specifics of the relief that might be ordered, in recent weeks many federal district courts" – including the Western District of Texas – "have ordered the immediate release of immigration habeas petitioners held in custody in violation of their due process rights." *Id; See Alvarado-Luna v. Warden, No. EP-25-CV-00565-DCG, (W.D. Tex. Dec. 29, 2025); Luna-Arriaga v. Thompson, No. 5:25-CV-1783-JKP, (W.D. Tex. Dec. 22, 2025); Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588, at *13 (W.D. Tex. Oct. 1, 2025); *See also J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025).

45. Alternatively, the court should order a bond hearing as a habeas remedy where the burden is on the government. Indeed "as of 2020, the 'vast majority'—an 'overwhelming consensus'—of courts granting immigration detainees' habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk." *Lopez-Arevelo*, 2025 WL 2691828, at *12 (citing *Velasco Lopez,* 978 F.3d at 855 n.14 (citations omitted). "Allocating the burden in this manner

reflects the concern that '[b]ecause the alien's potential loss of liberty is so severe ... he should not have to share the risk of error equally.'" (citing *German Santos*, 965 F.3d at 214). "And the consensus appears to be holding, with many courts in recent days ordering a bond hearing, at which the Government bears the burden of justifying the immigration habeas petitioner's continued detention by clear and convincing evidence." *Id.* ; *Velasquez Salazar v. Dedos,* No. 25-cv-835, 2025 WL 2676729, at *9 (D.N.M. Sept. 17, 2025); *Morgan v. Oddo,* No. 24-cv-221, 2025 WL 2653707, at *1 (W.D. Pa. Sept. 16, 2025); *J.M.P. v. Arteta*, No. 25-cv-4987, 2025 WL 2614688, at *1 (S.D.N.Y. Sept. 10, 2025); Espinoza, 2025 WL 2581185, at *14; *Arostegui-Maldonado v. Baltazar,*, 2025 WL 2280357, at *12 (D. Colo. Aug. 8, 2025). Nevertheless, though this Court has the authority to order relief as the Court sees fit, Petitioner maintains that her immediate release from custody is the most appropriate remedy for her unlawful detention because there is no indication that she is a danger to the community or a flight risk due to her significant ties to the United States.

CAUSES OF ACTION

COUNT ONE
Violation of Fifth Amendment Right to Due Process

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

47. 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).

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

49. The government's mandatory detention of Petitioner without affording her any meaningful opportunity to request custody redetermination to determine whether she is a flight risk or danger to others violates her right to Due Process pursuant to the Fifth Amendment.

COUNT TWO
Violation of the Immigration and Nationality Act
Unlawful Application of Mandatory Detention under 8 U.S.C. 1225(b)

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

51. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who are long-term residents of the United States who are inadmissible for being present in the U.S. without having been inspected or admitted by an immigration officer. Such noncitizens are detained under § 1226(a).

52. The application of § 1225(b)(2) to mandatorily detain Petitioner and bar her from any meaningful way to challenge her detention violates the Immigration and Nationality Act.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter and maintain jurisdiction to the extent necessary to ensure Respondents' compliance with any order this Court may issue;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that the refusal to allow Petitioners a bond redetermination hearing before an immigration judge violates the INA and the Due Process clause of the Fifth Amendment;

(4) Issue a Writ of Habeas Corpus requiring that Respondents immediately release the Petitioner, or, in the alternative, provide a custody redetermination hearing before this District Court in which the government bears the burden of showing that Petitioner is a flight risk or a danger to the community;

(5) Maintain jurisdiction over the Petitioner until the Respondents have properly complied with any Orders of this Court.

(6) Order further relief as this Court deems just and appropriate.

Respectfully submitted,

/s/ Mark Kinzler
Mark Kinzler, Esq.
Oregon State Bar No. 05298-8
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Austin, TX 78768
(512) 402-7999
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Attorney for Petitioner

Dated: January 20, 2026

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

I represent Petitioner, Griselda Julian-Vasquez, 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 20th day of January, 2026.

/s/ Mark Kinzler
Mark Kinzler, Esq.
Oregon State Bar No. 05298-8
Attorney for Petitioner

CERTIFICATE OF SERVICE
Julian-Vasquez v. Thompson et al
Case No. 5:26-cv-00276

I hereby certify that on January 20, 2026, I mailed by United States Postal Service the Verified Petition for Writ of Habeas Corpus by certified mail to the following:

Stephanie Rico
Civil Process Clerk Office of the United States Attorney for the Western District of Texas
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216-5597

Rose Thompson, Warden
Karnes County Immigration Processing Center
409 FM 1144
Karnes City, TX 78117

Miguel Vergara
San Antonio Field Office Director of Enforcement and Removal Operations
1777 NE Loop 410
Floor 15
San Antonio, TX 78217

Todd M. Lyons
Acting Director of Immigration Customs Enforcement
500 12th St SW
Washington, DC 20536

Secretary of Homeland Security Kristi Noem
2707 Martin Luther King Jr., Ave., SE
Washington, DC 20528-0485

U.S. Attorney General Pamela Bondi
950 Pennsylvania Ave NW
Washington, DC 20530

The above respondents were also named in the CM/ECF habeas corpus filing with the Western District of Texas court

/s/ Mark Kinzler