

WILLIAM B. SHIPLEY, ESQ.  
IMMIGRATION GENERAL SERVICES LLC  
20 N. WACKER DRIVE SUITE 1000  
CHICAGO, IL 60606  
PH.: 312-719-1179  
EMAIL: WILLIAM@IMMIGRATIONGENERSERVICES.COM  
NEW YORK ATTORNEY REGISTRATION #5223227

---

**UNITED STATES DISTRICT COURT**

**WESTERN DISTRICT OF TEXAS**

**EL PASO DIVISION**

---

**LAURA NELLY MURILLO-ARADILLAS,**

Detainee with Alien Case File Number 

Petitioner,

v.

**U.S. DEPARTMENT OF HOMELAND SECURITY (DHS);**  
**KRISTI NOEM, DHS SECRETARY** (in her official capacity);  
**EL PASO FIELD OFFICE DIRECTOR, ICE ENFORCEMENT AND REMOVAL**  
**OPERATIONS (ICE ERO)** (in his official capacity);  
**WARDEN** (or equivalent office or officer), **CAMP EAST MONTANA DETENTION**  
**FACILITY** (in their official capacity);

Respondents.

---

Civil Action Case No. 3:26-cv-0150-LS

---

**PETITIONER'S REPLY TO FEDERAL RESPONDENTS' RESPONSE IN**  
**OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)**

---

## **INTRODUCTION**

Petitioner LAURA NELLY MURILLO-ARADILLAS, through undersigned counsel, submits this Reply in support of her Petition for Writ of Habeas Corpus. Respondents' Opposition mischaracterizes this case as an attack on removal proceedings and asserts that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Those arguments are inconsistent with the statutory text, the structure of the INA, and—most importantly—recent, controlling authority from district courts within the Western District of Texas, the Fifth Circuit, and the U.S. Supreme Court.

This Petition challenges only the legality of the Petitioner's civil immigration detention and the Government's refusal to provide any meaningful custody determination. It does not seek review of a removal order, does not challenge the merits of removability, and does not interfere with ongoing § 240 proceedings. Habeas jurisdiction is therefore proper, § 1226(a) governs Petitioner's custody, and due process requires immediate release or, at a minimum, a prompt individualized bond hearing.

### **I. THIS COURT HAS *HABEAS* JURISDICTION OVER THE PETITIONER'S STAND-ALONE DETENTION CHALLENGE**

Respondents contend that this Court lacks jurisdiction under 8 U.S.C. §§ 1252(g) and 1252(b)(9). That contention is foreclosed by Supreme Court precedent and by recent decisions of courts within this District. Petitioner challenges only the fact and duration of her detention—not the initiation of removal proceedings, not the charges in the Notice to Appear, and not any discretionary decision to seek removal. Additionally, Petitioner was not “seeking admission” at the time she was summarily arrested without probable cause as part of a CBP/HSI investigation of which she was neither a target nor a subject of the investigation on September 25th, 2025, and the government's own evidence is inconsistent as to the fact that Petitioner posed no risk of flight nor was there any basis to detain her at the time of her arrest,

as she willingly complied with the officers' orders and freely admitted to her status and circumstances in this country. By the government's logic, border patrol agents could arrest anyone at any time and based solely on their unilateral determination as to what statute allegedly applied to those circumstances, absolve themselves of all legal scrutiny or the need to provide evidence to justify the continued detention of persons who pose no danger nor any risk of flight. Such a position bears no rational relationship to the policy objectives sought, but rather furthers a policy of cruelty and forced family separation that is inconsistent with the purpose of the statute to have an orderly system of migration under law, but also with our constitutional system of government as well as past Supreme Court precedence on these issues, the Fifth Circuit's recent decision in *Buenrostro-Mendez v. Bondi* notwithstanding.

*Jennings v. Rodriguez*, U.S. , 138 S.Ct. 830, 841, 200 L.Ed.2d 122 (2018) squarely held that § 1252(b)(9) does not bar district court jurisdiction over claims challenging immigration detention as unlawful or unconstitutional. Likewise, the Fifth Circuit has recognized that § 1252(g) is narrowly limited and does not preclude *habeas* review of custody determinations collateral to removal. District courts in the Western District of Texas have repeatedly exercised § 2241 jurisdiction in materially indistinguishable cases, including *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 U.S. Dist. LEXIS 206751, at \*11 (W.D. Tex. Oct. 21, 2025); *Tovar v. Noem*, No. 5:25-CV-1509-JKP, 2025 LX 539411 (W.D. Tex. Nov. 25, 2025); *Coulibaly v. Thompson*, No. 5:25-CV-1539-JKP, 2025 LX 560840 (W.D. Tex. Nov. 25, 2025); *Perez v. Noem*, No. 3:25-cv-2920-K-BN, 2025 LX 509530 (N.D. Tex. Nov. 14, 2025). Respondents' jurisdictional argument confuses the substantive case for that of the custody proceedings at issue here. For these reasons it should be rejected.

**II. PETITIONER IS DETAINED, IF AT ALL, UNDER 8 U.S.C. § 1226(a), NOT § 1225(b)(2)(A)**

The Government's Opposition rests on the erroneous premise that any noncitizen who entered without inspection is perpetually applying for admission, and therefore arbitrarily subject to arrest and mandatory detention under § 1225(b)(2)(A), regardless of where, when, or under what circumstances or pretext DHS apprehends them. That interpretation cannot be reconciled with the statutory text, with controlling authority in this Circuit, or with the U.S. Constitution, nor as-applied within the INA statutory scheme as a whole.

INA Section 1225(b)(2)(A) applies only when an examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted. Petitioner was not applying for admission when she was arrested and detained, nor was she apprehended at a port of entry, nor was she seeking admission at the time of arrest, nor was she subject to any of the routine inspection processes for persons mandatorily detained pursuant to § 1225. The target of the investigation was "Operators, Fabricators, and Laborers" for which reason the government's report erroneously listed her profession as the same, when she is a self-employed food vendor [Dkt. 6-1 at 2 ("Type of Employment")]. She was arrested "in a public place without a warrant" despite being inside a vehicle and despite freely answering all the agents' questions [Dkt. 6-1 at 3-4]. It is therefore not clear that her initial detention was even necessary, because she was neither a subject or target of the investigation and enforcement action, nor did she attempt to evade arrest, nor did she refuse to answer any questions, nor did she attempt to hide her identity or immigration status - indeed she freely answered all the agents' questions, including about her lack of status, as they readily admit in their report [Dkt. 6-1 at 3-4]. Detention was unlawful to begin with insofar as it is constitutionally unjustifiable when it bears no rational connection to a legitimate government purpose, as here. There simply was no need to detain her, nor any determination made, then or now, as to whether any detention was necessary to accomplish the government's enforcement objectives.

It is clear on these facts that she could have been served with a Notice to Appear by the field agents at the time of the initial encounter without the need for detention, and indeed, the government has never been asked to justify why it did not do so here. In light of her need to care for her two U.S.-citizen-teenage daughters, particularly her daughter with special needs, ANY substantive inquiry into her circumstances would have revealed that fact. Instead, she was pulled by force from her vehicle by federal government agents looking for day laborers (which she was not); forcibly arrested when she posed no flight risk nor denied her immigration status; and was kept incommunicado from her friends, family, and legal counsel after being sent 1,500 miles away from her home community following her arrest as part of the so-called "Operation Midway Blitz" in Chicago, Illinois [Dkt. 6-1 at 3-4]. Petitioner was summarily arrested employing herself selling tamales, decades after entering the United States, while complying with the instructions of the United States government agents, and having received NO determination as to her risk of flight nor of her non-compliance, nor of any danger to the public safety.

These overly-aggressive actions were not only unnecessary. They bear no rational connection to the government's policy enforcement goals, because there was never any determination made by the government during or since her arrest that her arrest was even necessary in order to place her in removal proceedings or to compel her compliance with those proceedings, or with the immigration laws of this country. It also disregards entirely the rights of U.S. citizen children to petition the government for an ability to be heard as to why their mother's presence is necessary for their own well-being and the harm occasioned by their forcible displacement from their mother's arms. Such a reading of the statute does not comport with the minimum requirements of the U.S. Constitution both with respect to the Due Process clause and with respect to the Suspension Clause, as it imbues government agents with the unilateral power to arrest and detain, without evidence or justification, and

without the need to produce any. This is precisely the type of illegitimate and coercive abuse of power through unilateral detention without cause that the Great Writ of Habeas Corpus was instituted to prevent, as Petitioner pointed out in its complaint, which Respondents do not address in their Opposition [c.f. Dkt.1 Count III at paras. 42-45; Dkt. 6 at p. 9]. Further, Petitioner points out that Respondents' reply repeatedly refers to "his" Petition, raising questions as to whether this filing was drafted in opposition to Petitioner's specific petition, or merely re-purposed and re-filed from another similar case involving a male Petitioner.

Recent Western District of Texas decisions have rejected the Government's attempt to stretch the legal fiction of an asserted mandatory detention category under § 1225(b)(2)(A) to apply to long-residing persons arrested in the interior of the United States, or to subject persons in standard § 240 removal proceedings to when Immigration Courts have jurisdiction under federal law to consider Petitioner's eligibility for a custody determination hearing. The *Hernandez-Fernandez*, *Tovar*, and *Coulibaly* Courts all held that § 1226(a) — the default detention statute for noncitizens arrested within the United States pending removal proceedings — governs detention in precisely these circumstances. Those decisions are directly on-point and should be controlling here.

Respondents' opposition disregards entirely the facts and circumstances of Petitioner's initial arrest and detention, as well as the Constitutional Due Process concerns inherent to an indefinite suspension of any habeas corpus obligations on the government's part to produce evidence justifying continued detention. This logic has been repeatedly rejected by the Supreme Court in *Jennings* and other related jurisprudence; see e.g. Moreover, post-*Loper Bright*, no deference is owed to the BIA's recent erroneous legal interpretations at odds with this jurisprudence, specifically *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) and *Matter of Jonathan Javier Yajure Hurtado*, 29 I&N Dec 216 (BIA 2025). Respondents would ask this Court to defy the bevy of jurisprudence that has already rejected

the belabored legal fictions inherent in the flawed reasoning of the administrative law decision. This Court must adopt the best reading of the statute, by which reading there is no need for erroneous “catch-all” provisions that foreclose any possibility of individualized fact-finding with respect to Petitioner and Petitioner’s eligibility for release from unnecessary detention pursuant to § 1226(a) which governs Petitioner’s custody here.

### **III. PETITIONER’S CLAIMS DO NOT REQUIRE EXHAUSTION A PRIORI**

Petitioner notes that Respondents simply asserts that “Petitioner must first seek relief with the immigration court or the BIA, fully exhausting administrative remedies before coming to this Court,” without directly addressing Petitioner’s arguments why the exhaustion of administrative remedies would be futile in this case. Those arguments remain valid, as requiring further delay and administrative steps would only further compound the very abuse the Writ of Habeas Corpus is designed to remedy. See *Boumediene v. Bush*, 553 U.S. 723, 739–71 (2008); *INS v. St. Cyr*, 533 U.S. 289, 300–14 (2001); *Kambo v. Poppell*, 2007 U.S. 17 Dist. LEXIS 77857 (W.D. Texas, Oct. 18, 2007) at 55-58 (which learned decision reviews the long arc of Supreme Court jurisprudence on Constitutional Due Process challenges to various regulatory and statutory detention schemes governing persons detained in various stages of their immigration enforcement and removal procedures).

Respondents’ suggestion that Petitioner was required to exhaust administrative remedies fails, because Section 2241 contains no statutory exhaustion requirement, and prudential exhaustion is excused where, as here, the Immigration Judge expressly disclaimed jurisdiction to conduct any custody redetermination, and the appealing administrative body is not going to reverse itself, so imposing an exhaustion requirement would be futile. Furthermore, the government now imposes fees for such appeals whereas before appeals

were available as of right. Petitioner is prevented by the very fact of her detention from earning the monies necessary to pay for the appeal that Respondents would force Petitioner to pay and wait months longer deprived of her liberty without any opportunity to be heard. This would exacerbate the very abuse against which the Great Writ was (and is) intended to protect.

Requiring an appeal to the BIA would be futile because the IJ's ruling rested entirely on the BIA's own precedent in *Matter of Yajure Hurtado*. Courts in this Circuit, including the *Hernandez-Fernandez* Court, have recognized that exhaustion is not required where the agency categorically refused to exercise jurisdiction and where ongoing detention inflicts irreparable constitutional harm, and would impose additional harm which cannot be remedied after the fact of her eventual release. Time lost to immigration incarceration unnecessarily, away from one's family and one's job, cannot be replaced after the fact.

#### **IV. DUE PROCESS REQUIRES A PROMPT, MEANINGFUL CUSTODY HEARING OR RELEASE**

Finally, Respondents' due process arguments misreads or entirely ignores the facts here, and mis-applies prior case law on this issue. Petitioner has sought bond relief from the Immigration Court, which relief was unavailing because of the administrative decisions imposed upon the Immigration Courts from the BIA as a result of the *Yajure Hurtado* decision. Such decisions do not render indefinite detention without a hearing to demonstrate legal and evidentiary justification for the detention any less unconstitutional. In *Hernandez-Fernandez*, the court ordered a bond hearing (or release) where detention continued without an individualized determination of flight risk or danger, as the Supreme Court has repeatedly found that such circumstances raise serious constitutional concerns that require action on the part of government agencies in the form of a custody determination

hearing. The same result is warranted here.

Respondents have neither presented nor been required to present any evidence of criminal history, any evidence of non-compliance, or of risk of flight or to the public safety. What evidence it has produced as a result of this Petition indicates the contrary - that Petitioner complied with the agents' instructions, freely answered their questions, and posed no "resistance" other than an unwillingness to unlock her car door, which she was under no legal requirement to do. Agents could have served her with a Notice to Appear on the spot on September 25th, 2025, without requiring her to exit her vehicle, without forcibly extracting her from it or tackling her to the ground, and without depriving her U.S. citizen children of their mother, and without throwing her into detention and transporting her 1500 miles away from her community, at taxpayers' expense, and without housing and feeding her, also at taxpayers' expense, when she was housing and feeding herself at no expense to the government previously, and depriving itself of the revenue from her continued self-employment income, on which she has and continues to pay her taxes.

These actions by Respondents do not serve the enforcement of immigration laws, but rather, serve to punish persons subject to the unilateral actions of government agents operating without regard for facts and evidence, just as Respondents invite this Honorable Court to do. It is not clear any such custody determination has been made, at the time of her arrest or since, whether by agents of Respondent DHS, or by the Immigration Courts and Board of Immigration Appeals operated pursuant to the policies of Respondent U.S. Attorney General Bondi. Due process requires, at a minimum, a prompt custody hearing before a neutral decisionmaker at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary. No such determination has yet to take place, despite Petitioner's being detained now going on her sixth month.

## **CONCLUSION**

For the foregoing reasons, and those stated in the Petition, the Court should grant the writ of habeas corpus, declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a), and order Petitioner's immediate release or, in the alternative, a prompt and meaningful bond hearing with the burden on the Government to justify why detention is necessary when constitutional means remain at their disposal to accomplish the same policy objectives.

Respectfully submitted this 23rd day of February, 2026,

/s/ William Shipley

**WILLIAM B. SHIPLEY, ESQ.**  
**IMMIGRATION GENERAL SERVICES LLC**  
20 N WACKER DR., STE. 1000  
CHICAGO, IL 60606  
TEL. (312) 719-1179  
EMAIL: WILLIAM@IMMIGRATIONGENSERVICES.COM  
ATTORNEY REGISTRATION #5223227 (NEW YORK)  
ATTORNEY FOR PETITIONER **LAURA NELLY MURILLO-ARADILLAS**

**CERTIFICATE OF SERVICE**

I certify that on February 23rd, 2026, the undersigned counsel to Petitioner provided electronic notice to Counsel to Respondent U.S. federal government agents and agencies via the U.S. District Court Case Management and Electronic Case Filing system (CM/ECF) through which system Counsel of Record with the Office of the U.S. Attorney for the Western District of Texas is registered and receives notice and true certified copies of all case filings.

Respectfully submitted this 23rd day of February, 2026,

/s/ William B. Shipley

WILLIAM B. SHIPLEY, ESQ.

IMMIGRATION GENERAL SERVICES LLC

20 N. WACKER DRIVE SUITE 1000, CHICAGO, IL 60606

COUNSEL TO HABEAS PETITIONER LAURA NELLY MURILLO-ARADILLAS