UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division

Meloney Michelee Middleton, *Petitioner*, v. Kristi Noem, *Secretary of Homeland Security, U.S. Department of Homeland Security* Todd Lyons, *Acting Director, U.S. Immigration and Customs Enforcement*, Jeremy Bacon, *Acting Field Office Director, Baltimore Field Office, Immigration and Customs Enforcement*, Pamela Bondi, *Attorney General, U.S. Department of Justice*, *Respondents.*	No. _____

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner, Meloney Michelee Middleton ([redacted])[1] is a native and citizen of Belize who presented herself at a port of entry of the United States on foot, on approximately December 9, 2022. She was apprehended by immigration officers at that time. Thereafter, U.S. Immigration and Customs Enforcement ("ICE") issued an I-200 warrant for her arrest under 8 U.S.C. § 1226(a), and issued an I-286 notice of custody determination ordering her release on her own recognizance under § 1226(a). She was then transferred to a different facility, and released on approximately

[1] Petitioner hereby waives the protections of Local Standing Order 2025-01. Petitioner does not have a final removal order and therefore is not at imminent risk of removal from the United States.

December 27, 2022. Despite this, Respondents would now subject her to mandatory detention under a separate provision and strip her of previously afforded process.

Petitioner was re-arrested by ICE under facts and circumstances that place her squarely within ICE's general detention authority 8 U.S.C. § 1226(a). Under that statute, Petitioner is eligible to seek discretionary release on bond from an Immigration Judge ("IJ"). However, due to a reversal of policy announced by ICE in July 2025, and a September 2025 Board of Immigration Appeals (BIA) decision that overturns decades of settled law, Respondents contend that Petitioner is actually detained under 8 U.S.C. § 1225(b). While § 1225(b) requires mandatory detention and does not allow release on bond, it only applies to either arriving aliens or those seeking admission. Following her release from custody under § 1226(a), when Petitioner was reencountered by ICE years later, Petitioner is neither an arriving alien nor an applicant for admission seeking admission. Petitioner therefore brings this action to enjoin Respondents from subjecting her to mandatory detention under 8 U.S.C. § 1225(b) and seeking an order to release Petitioner from custody and that Respondents schedule her for a discretionary bond hearing pursuant to § 1226(a) before an IJ within 7 days.

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241 and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. This Court also has federal question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA review of a final agency action may proceed, absent a special statutory review proceeding, by "any applicable form of legal action,

including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction." 5 U.S.C. § 703.

3. Venue lies in this District because Petitioner is currently detained within the territorial jurisdiction of this division of this District; and each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1).

THE PARTIES

4. Petitioner Meloney Michelee Middleton (A[redacted]) is a citizen and native of Belize and is currently detained by Respondents at the Baltimore Hold Room at the Baltimore ICE Field Office in Baltimore, Maryland, within the territorial jurisdiction of this Court.

5. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent Jeremy Bacon, the Acting Field Office Director of the ICE Baltimore Field Office, is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Petitioner, including detentions, enforcement, and removal operations. His regular place of business is in Baltimore. He is the immediate legal and physical custodian of the Petitioner for purposes of a federal habeas petition.

8. Respondent Pamela Bondi is the Attorney General of the United States. She is the head of the U.S. Department of Justice, which oversees the Executive Office for Immigration Review, including the Board of Immigration Appeals and the Immigration Court judges, who decide removal cases and applications for bond as her designees.

9. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

A. Immigration Detention Legal Framework

10. When a noncitizen is alleged to have violated immigration laws, they are generally placed into traditional removal proceedings, during which an immigration judge will determine whether they are removable and then whether they have a legal basis to remain in the United States. 8 U.S.C. § 1229a.

11. Detention is authorized for "certain aliens already in the country pending the outcome of removal proceedings under § 1226(a) and 1126(c)." *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The statute provides that an individual may be subject to either discretionary detention under 8 U.S.C. § 1226(a) generally, or mandatory detention under 8 U.S.C. § 1226(c) if they have been arrested or convicted of certain crimes. Discretionary detention under § 1226(a) has been described as the "default" provision for immigration detention for those subject to traditional removal proceedings. *Id.* at 288. Under § 1226(a), "'[e]xcept as provided in subsection (c) of this section,' the Attorney General 'may release' an alien detained under § 1226(a) 'on ...bond' or 'conditional parole.'" *Id.*

12. Alternatively, mandatory detention is authorized for "certain aliens *seeking admission* into the country under §§ 1225(b)(1) and 1225(b)(2)," [emphasis added]. *Jennings*, 583 U.S. at 289. Individuals inspected under § 1225(b) and determined to be "applicants for admission" may be subject to mandatory detention under two separate subsections. Applicants for admission include someone:

> "present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for the purposes of this chapter to be an applicant for admission."

§ 1225(a)(1).

13. The first subset, under 8 U.S.C. § 1225(b)(1), may be subject to expedited removal and mandatory detention if they are determined to be an "arriving alien," and if they have not been physically present in the United States continuously for a two-year period immediately prior. Regulations define an "arriving alien" as:

> "an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport."

8 C.F.R. § 1.2.

14. Otherwise, 8 U.S.C. § 1225(b)(2) provides for the detention of "applicant for admission" specifically when "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," i.e. for traditional removal proceedings [emphasis added].

15. An "arriving alien" or an applicant for admission "seeking admission" may only be released from detention on parole (which is a form of release on recognizance), under 8 U.S.C. § 1182(d)(5). *Jennings*, 583 U.S. at 288. There is no bond available to an arriving alien or applicant for admission seeking admission. *Id.* There is no such thing as a "parole bond" – a release must be either parole under § 1182(d)(5) or a bond (conditional parole) under § 1226(a). *Id.*

16. For a noncitizen subject to discretionary detention under 8 U.S.C. § 1226(a), ICE makes an initial custody determination to either set a bond or hold the individual at no bond. The noncitizen may then seek a review of ICE's initial custody determination before the IJ (a "custody review hearing"), who has the authority to modify ICE's custody determination and set bond in a

case in which ICE has designated no bond, lower bond when ICE has set a cash bond amount, or deny bond completely. 8 C.F.R. § 1003.19.

17. Custody review hearings are separate from hearings in the underlying removal proceedings. 8 C.F.R. § 1003.19(d). If a noncitizen is granted bond by the IJ, he must still appear in immigration court for the IJ to his her removability and hear any claim for relief from removal. At a custody review hearing, once jurisdiction over bond is established, the IJ's inquiry is limited to whether the detainee is a danger to the community or a flight risk, and bond may only be granted when an IJ has determined that the detainee meets his burden of proof that he is neither. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

18. For decades, it has been Respondents' practice to afford § 1226(a) discretionary bond hearings and custody review hearings to those individuals who have been encountered neither at a point of entry nor seeking admission to the United States. *See Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) ("Respondents' proposed application of § 1226 is also belied by the Department of Homeland Security's 'longstanding practice' of treating noncitizens taken into custody while living in the United States, including those detained and found inadmissible upon inspection and then released into the United States with the government's acquiescence, who have committed no crime after release, as detained under § 1226(a).") (citing *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024)).

B. BIA Decision in *Matter of Q. Li*

19. On May 15, 2025, the BIA issued its decision in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), which held that an applicant for admission "who was arrested without a warrant

while arriving in the United States and thereafter placed in removal proceedings, is detained under section 235(b)(2)(A), until the conclusion of removal proceedings." *Id.* at 71.

20. Q. Li was encountered upon entry into the United States, she was arrested by immigration officers, and paroled into the U.S. under 8 U.S.C. § 1182(d)(5). *Id.* at 67. Part of the condition of her §1182(d)(5) parole was to report regularly to ICE. *Id.* Following a subsequent alert as to an international arrest warrant, she was taken back into custody, issued a Notice to Appear commencing removal proceedings, and issued a new Notice of Custody Determination and detained. *Id.* She requested a custody redetermination before an IJ and was denied for lack of jurisdiction, because she was subject to mandatory detention under § 1225(b)(2). *Id.*

21. In particular, the BIA reasoned that the termination of parole restored Q. Li to her prior custody status. *Id.* at 69. ("When parole granted by DHS is terminated, "the alien shall forthwith return or be returned to the custody from which he was paroled." INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i)."). Additionally, Q. Li had been arrested without a warrant, and had never been subject to 8 U.S.C. § 1226(a) authority. *Id.* at 70. Ultimately, the BIA agreed that she was subject to § 1225(b)(2) and ineligible for bond. *Id.* at 71.

22. While Respondents have attempted to apply *Q. Li* more broadly to individuals encountered at the interior of the country – or in the absence of a parole under § 1182(d)(5) – this argument has been consistently rejected. *See Valerio v. Joyce,* No. CV 25-17225 (ZNQ), 2025 WL 3251445, at *3 (D.N.J. Nov. 21, 2025); *Diaz Rudecindo v. Florentino*, No. CV 25-16942 (ES), 2025 WL 3470299, at *2 (D.N.J. Dec. 3, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *9-11 (D. Md. Aug. 24, 2025); *Vasque Romero v. Noem*, No. CV 3:25-524, 2026 WL 116379, at *1 (W.D. Pa. Jan. 15, 2026); *and Hasan v. Crawford*, 800 F. Supp. 3d 641, 657, n.11 (E.D. Va. 2025).

C. New ICE memo reinterpreting 8 U.S.C. § 1225(b)(2)

23. On July 8, 2025, Respondent ICE issued new interim guidance that announced a breathtakingly broad interpretation of 8 U.S.C. § 1225(b)(2). *See* ICE memorandum "Interim Guidance Regarding Detention Authority for Applications for Admission."[2] This memo concerns the detention of "applicants for admission" as defined by § 1225(a)(1). "Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)(2)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)]." *Id.* DHS is explicit that this new policy is a marked deviation from prior interpretation and treatment of affected noncitizens. *Id.* ("For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated.")

24. In addition to the announcement re-interpreting § 1225(b)(2), the memo further clarifies that "[t]he only aliens eligible for a custody determination and release on recognizance, bond or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237 [8 U.S.C. § 1227], with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." *Id.*

25. Moreover, ICE maintains that "DHS does not take the position that prior releases of applicants for admission pursuant to INA § 236(a) were releases on parole under INA § 212(d)(5) based on this change in legal position." *Id.* ICE fails to clarify under what legal authority, then, those prior releases were effectuated. Rather, ICE signals the resulting lack of "correct"

[2] *Available at*: https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last visited Jan. 16, 2026).

paperwork is nonetheless permissible. *Id.* ("Accordingly, ERO and HIS are not required to 'correct' the release paperwork by issuing INA § 212(d)(5) parole paperwork.")

26. Nationwide implementation of the ICE § 1225(b)(2) mass detention policy ensued.

D. BIA decision *Matter of Yajure Hurtado*

27. On September 5, 2025, the Board of Immigration Appeals (BIA), which oversees all appeals of IJ decisions including custody redeterminations, upheld ICE's re-interpretation of § 1225(b)(2). *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

28. The BIA held that the respondent was an "applicant for admission" within the scope of § 1225(b), and therefore subject to mandatory detention.

29. The BIA characterized the issue before it as "one of statutory construction: Does the INA require that *all* applicants for admission, even those like the respondent who have entered without admission or inspection and have been residing in the United States for years without lawful status, be subject to mandatory detention for the duration of their immigration proceedings, and thus the Immigration Judge lacks authority over a bond request filed by an alien in this category?" [emphasis added]. *Id.* at 220.

30. The BIA reasoned that individuals "who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer." *Id.* at 228.

31. The BIA acknowledged the decades of precedent preceding its decision that authorized release of individuals present without having been inspected and admitted or paroled under § 1226(a). *Id.* at 225, FN6 ("We acknowledge that for years Immigration Judges have conducted bond hearings for aliens who entered the United States without inspection. However, we do not recall either DHS or its predecessor, the Immigration and Naturalization Service,

previously raising the current issue that is before us. In fact, the supplemental information for the 1997 Interim Rule titled '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), reflects that the Immigration and Naturalization Service took the position at that time that '[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.'")

32. Ultimately, the BIA upheld the decision that the IJ lacked jurisdiction under 8 U.S.C. § 1225(b)(2) to consider the respondent for discretionary bond. *Id.* at 229.

33. The BIA decision is binding on all immigration judges nationwide.

34. Respondents' new policy and interpretation of 8 U.S.C. § 1225(b)(2) stand to sweep millions of noncitizens into mandatory detention, without any consideration for release on bond (regardless of their ties to their community or lack of dangerousness or flight risk). *Rosado*, 2025 WL 2337099, at *11 ("It has been estimated that this novel interpretation would require the detention of millions of immigrants currently residing in the United States.")

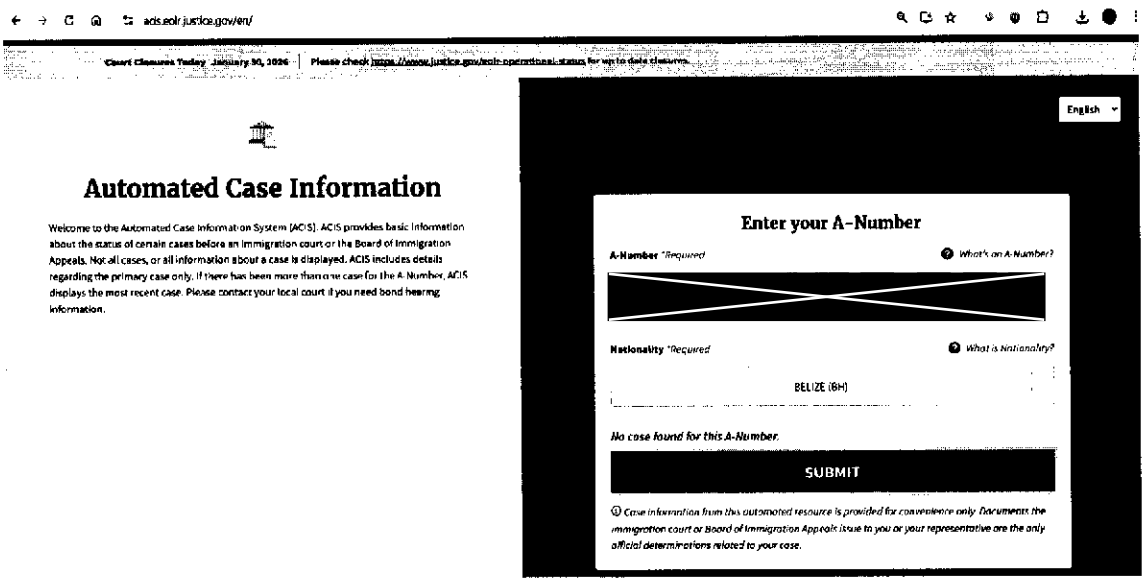
FACTS

35. Petitioner, Meloney Michelee Middleton (A[redacted]) is a native and citizen of Belize who presented herself at a port of entry of the United States on foot, on approximately December 9, 2022. *See* Ex. 1, CBP record of encounter.

36. She was apprehended at that time. U.S. Immigration and Customs Enforcement ("ICE") issued an I-200 Warrant for her arrest under 8 U.S.C. § 1226(a). *See* Ex. 2, ICE I-200 warrant. This warrant has never been rescinded or revoked.

37. Also on December 9, 2022, ICE issued an I-862 Notice to Appear, but removal proceedings have never commenced against Petitioner. *See* Ex. 3, ICE I-862 Notice to Appear.

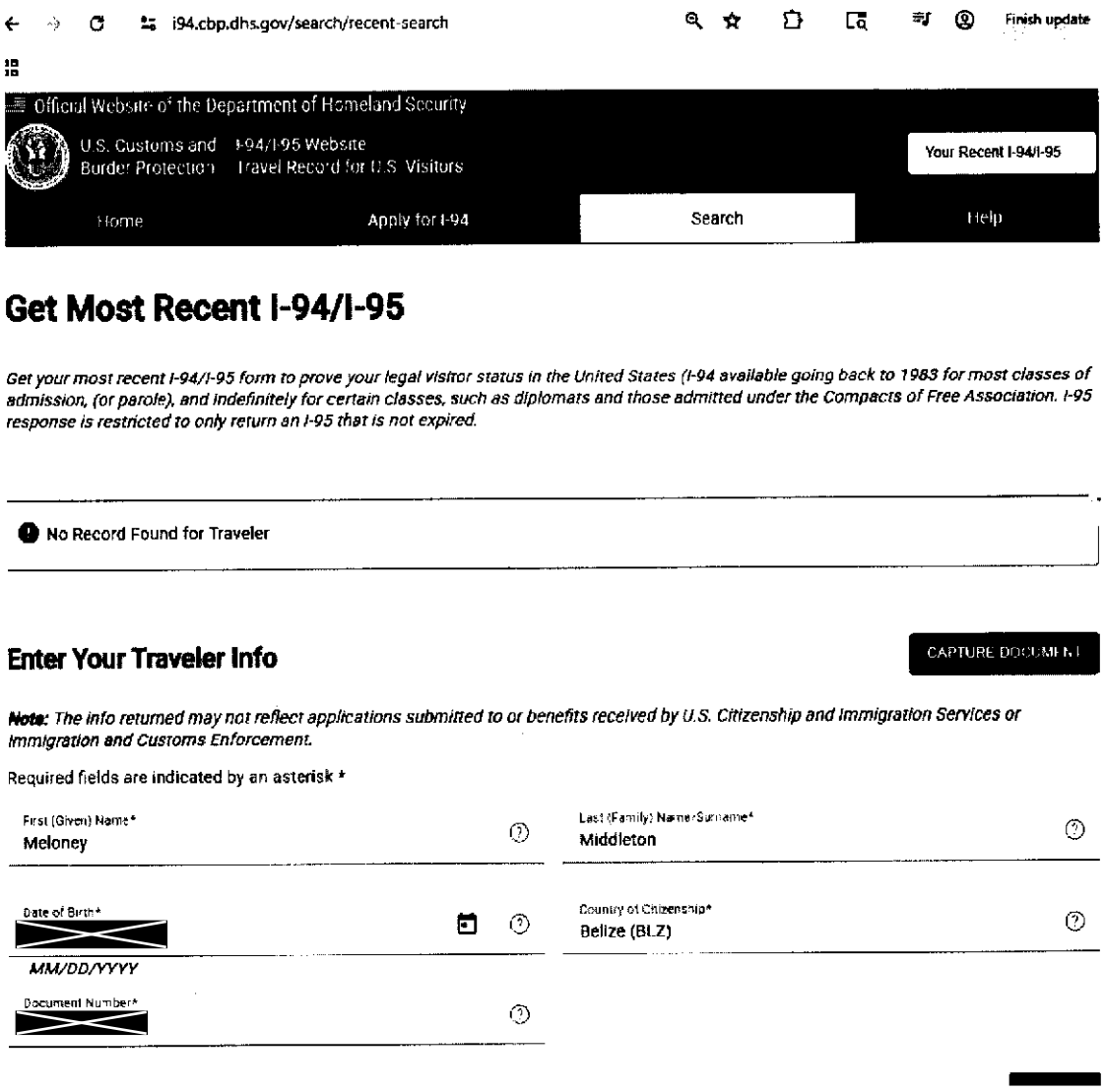
Regardless, Petitioner is not subject to a final order of removal. *See also* EOIR Automated Case Information (available at https://acis.eoir.justice.gov/ (last visited on January 30th, 2026)):



38. Lastly on December 9th, ICE issued a Notice of custody determination ordering Petitioner's release on her own recognizance under § 1226(a). *See* Ex. 4, I-286 Notice of Custody Determination. This notice has never been rescinded or revoked.

39. Upon information and belief, Petitioner was then transferred to a different detention facility, and she was scheduled for a follow up appointment with DHS at the ICE office in Fairfax VA. *See* Ex. 5, DHS Appointment Notice.

40. Petitioner was released on approximately December 27, 2022. *See* Ex. 6, Unexecuted I-94 Record. However, no record of this release or document exists in the current U.S. Customs and Border Patrol system. *See* "Get Most Recent I-94/95" (available at: https://i94.cbp.dhs.gov/search/recent-search, (last visited January 30, 2026)):



i94.cbp.dhs.gov/search/recent-search

Finish update

Official Website of the Department of Homeland Security

U.S. Customs and Border Protection

I-94/I-95 Website
Travel Record for U.S. Visitors

Your Recent I-94/I-95

Home | Apply for I-94 | Search | Help

Get Most Recent I-94/I-95

Get your most recent I-94/I-95 form to prove your legal visitor status in the United States (I-94 available going back to 1983 for most classes of admission, (or parole), and indefinitely for certain classes, such as diplomats and those admitted under the Compacts of Free Association. I-95 response is restricted to only return an I-95 that is not expired.

No Record Found for Traveler

Enter Your Traveler Info

CAPTURE DOCUMENT

Note: *The info returned may not reflect applications submitted to or benefits received by U.S. Citizenship and Immigration Services or Immigration and Customs Enforcement.*

Required fields are indicated by an asterisk *

First (Given) Name*
Meloney

Last (Family) Name/Surname*
Middleton

Date of Birth*
[redacted]
MM/DD/YYYY

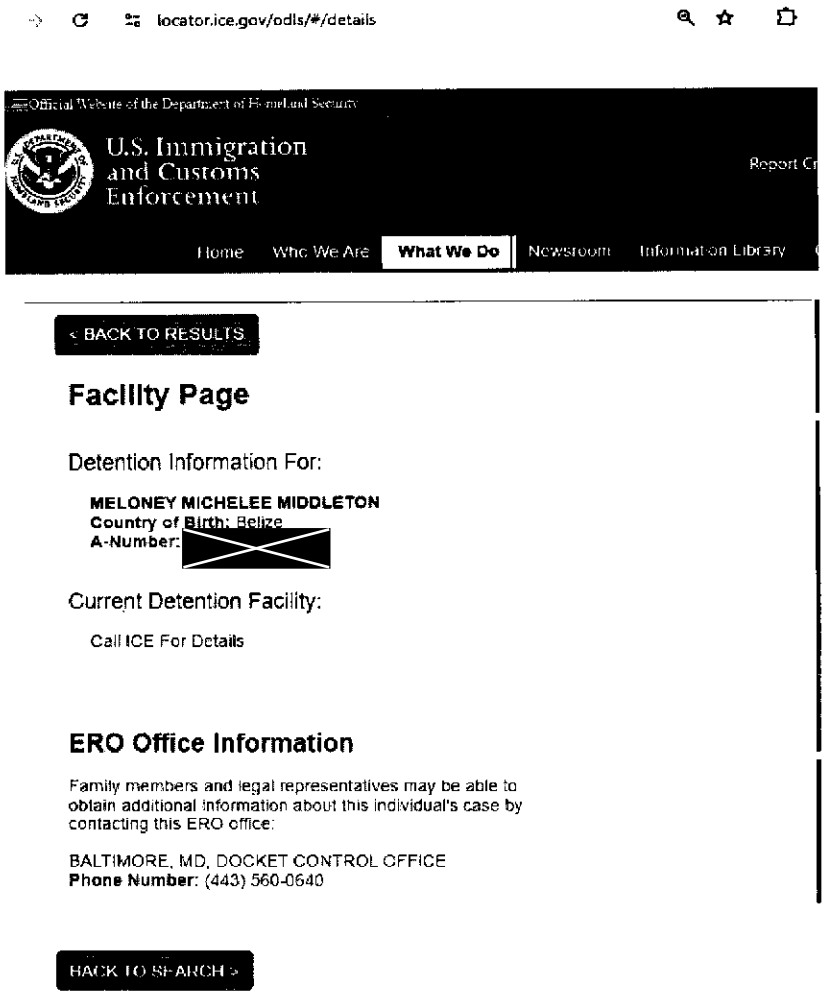
Country of Citizenship*
Belize (BLZ)

Document Number*
[redacted]

41. Because Petitioner's NTA was never filed with the immigration court, she filed an affirmative I-589 application for asylum, and has been working lawfully in the United States while awaiting its adjudication. *See* Ex. 7, USCIS I-589 receipt notice, and Ex. 8, USCIS Employment Authorization Document, valid through June 27, 2029.

42. On approximately January 29, 2026, Petitioner appeared for another scheduled check in with ICE at the Baltimore ICE Field Office and was detained.

43. *See* ICE Detainee Locator Information (*available at*: https://locator.ice.gov/ (last visited on January 23, 2026)):



44. All Respondents consider that Petitioner is mandatorily detained pursuant to 8 U.S.C. § 1225(b). Accordingly, based on the BIA decisions in *Matter of Q. Li* and *Matter of Yahure Hurtado*, it would be futile for Petitioner to appeal the bond denial to the Board of Immigration Appeals. Exhaustion of administrative remedies would therefore be futile.

FIRST CLAIM FOR RELIEF:
No-Bond Detention in Violation of 8 U.S.C. § 1226(a)

45. Petitioner re-alleges and incorporates by reference paragraphs 1-45.

46. Since Petitioner is not an applicant for admission "seeking admission" or "an arriving alien" subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2) and has no disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), she is entitled to a bond redetermination hearing by an immigration judge pursuant to 8 U.S.C. § 1226(a). While she was encountered at the time of her entry, she was released from custody and became an individual present in the United States without having been admitted.

47. Absent a showing of parole under 8 U.S.C. § 1182(d)(5), Petitioner's release only could have occurred pursuant to 8 U.S.C. § 1226(a). While Petitioner was handed a piece of paper indicative of I-94 record, which purports to contain a record of a 212(d)(5) parole. *See* Ex. 6. However, this document is not executed and contains no identifying information about Petitioner, the officer who executed this record, or where it was executed. *Id.* This document does not so much as contain Petitioner's name, and it's not clear that CBP recorded this release in their I-94 system. *See* supra, ¶ 40. Therefore cannot constitute a lawfully executed parole of Petitioner under 8 U.S.C. § 1182(d)(5).

48. Contrarywise, there are several duly executed records by ICE under 8 U.S.C. § 1226(a) authority, including an I-200 warrant for arrest and I-286 notice of custody determination which ordered Petitioner's release on recognizance. *See* Exs. 2, 4. A release on recognizance is considered a conditional parole. "Release on recognizance is not a 'humanitarian' or 'public benefit' 'parole into the United States' under section 1182(d)(5)(A) but rather a form of 'conditional parole' from detention upon a charge of removability, authorized under section 1226." *Hasan v. Crawford*, 800 F. Supp. 3d 641, 655 (E.D. Va. 2025) citing *Martinez v. Hyde*, 792 F.Supp.3d 211, 215 (D. Mass. July 24, 2025) (internal quotations omitted). *See also*

Quispe-Ardiles v. Noem, No. 1:25-CV-01382-MSN-WEF, 2025 WL 2783800, at *6 (E.D. Va. Sept. 30, 2025) (same). Neither of the duly executed I-200 warrant nor the I-286 notice of custody determination have ever been rescinded or revoked.

49. Moreover, when Petitioner's conditional parole was de facto revoked, when she was rearrested, ICE was required to do so under the original I-200 warrant. 8 U.S.C. § 1226(b). Accordingly, Petitioner remains entitled to a bond hearing under § 1226(a).

50. Respondents' actions, as set forth herein, violate Petitioner's statutory right to a bond redetermination hearing in front of an immigration judge.

SECOND CLAIM FOR RELIEF:
Detention in Violation of Due Process

51. Petitioner re-alleges and incorporates by reference paragraphs 1-45.

52. While the government's authority to revoke a conditional parole is in their sole discretion, it must still comport with due process. Immigration detention is civil, not criminal, in nature. There are only two permissible reasons for immigration detention: to avoid flight risk, and to avoid danger to the community. "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*." *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 685 (W.D. Tex. 2025), citing 424 U.S. 319 (1976).

53. Petitioner has a strong private interest at stake in her liberty. As held in *Lopez-Arevalo*, another case involving a detainee who was rearrested following a prior release, "the interest in being free from physical detention by [the] government" is "the most elemental of liberty interests[.]" 2025 WL 2691828, *10, quoting *Martinez v. Noem*, 2025 WL 2598379, at *2 and *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Moreover, "it is well-established that parolees have a strong interest in their conditional release, ... and courts have held they cannot be re-arrested without a due process hearing in which they can challenge their re-

incarceration." *Rodriguez Diaz v. Kaiser*, No. 25-CV-05071-TLT, 2025 WL 3011852, at *9 (N.D. Cal. Sept. 16, 2025), citing *Morrissey v. Brewer*, 408 U.S 471, 481-2 (1972). Petitioner was released on recognizance by ICE. Accordingly, his liberty interest is *at least as great* as those serving criminal sentences on parole. *Id.* Moreover, Petitioner's liberty interest has only grown in the time since his prior immigration detention in 2023. *Id.* at *10. *See also Lopez Arevalo*, 801 F. Supp. 3d at 686 (same).

54. Next, the risk of erroneous deprivation of said liberty to Petitioner is high. Respondents have not provided a reason for Petitioner's rearrest nor do they believe they are required to do so. *See* July 2025 ICE Memo, supra at ¶¶ 22-25. *See also Rodriguez Diaz*, 2025 WL 3011852, at *11, citing *Guillermo M.R. v. Kaiser*, No. 25-cv-05436-RFL, 2025 WL 1983677, at *8 (N.D. Cal. Jul. 17, 2025). ("Respondents' new position would grant ICE unlimited authority to disregard any bond determination made by an IJ for any reason, which is 'a recipe for arbitrary and erroneous deprivations of liberty.'"). Moreover, seeking a bond hearing before an immigration judge without a ruling from this Court would be equally as futile as appeal to the BIA, as it is sure to be denied for lack of jurisdiction. *Lopez Arevalo*, 801 F. Supp. 3d at 686. ("[G]iven the BIA's interpretation of mandatory detention in *Yajure Hurtado*, that appeal is almost certainly a futile exercise."). *See also Rodriguez-Diaz*, 2025 WL 3011852, at *12 (same). Indeed, there are not yet removal proceedings commenced where she could even make such a request.

55. The government could only present minimal interests in continuing to detain Petitioner without affording her a bond hearing. There is no current evidence that Petitioner is a flight risk or that she is a danger to the community. Any resource arguments fall flat because the cost of a mere bond hearing is surely dwarfed by accruing expenditures to finance his ongoing detention. *Lopez-Arevalo*, 801 F. Supp. 3d at 687. Moreover, the costs of a bond hearing are those

that the government has allotted for decades without issue in these contexts. *Id.* Most importantly, "Petitioner-Plaintiff is not asking the Court to enjoin detention altogether, he only requests that Respondents justify his re-detention at a pre-deprivation hearing." *Rodriguez-Diaz*, 2025 WL 3011852, at *13. The same is true here.

56. Accordingly, all *Mathews* factors militate in favor of Petitioner, and Respondents' actions in detaining Petitioner without a bond hearing before a neutral and detached magistrate have therefore deprived Petitioner of her rights without due process of law.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

b) Immediately enjoin Petitioner's transfer outside of this judicial district pending this litigation;

c) Enjoin Respondents from holding Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2) and denying her a bond hearing on that basis;

d) Enjoin Respondents from re-arresting Petitioner subject to § 1225(b)(2);

e) Order Petitioner's immediate release from custody;

f) Order, in the alternative, Petitioner's immediate release and that Respondents conduct a bond hearing for Petitioner pursuant to 8 U.S.C. § 1226(a) within 7 days;

g) Retain jurisdiction over this matter to ensure Respondents' compliance with the Court's orders;

h) Grant the writ of habeas corpus and order Respondents to release Petitioner forthwith, upon payment of the bond as ordered by the Immigration Judge; and

i) Grant any other relief that this Court deems just and proper.

Respectfully submitted,

Dated: January 30, 2026

/s/ Leah Haynes
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Counsel for Petitioner

LIST OF EXHIBITS

Ex. 1, CBP record of encounter.

Ex. 2, ICE I-200 warrant.

Ex. 3, ICE I-862 Notice to Appear.

Ex. 4, I-286 Notice of Custody Determination.

Ex. 5, DHS Appointment Notice.

Ex. 6, Unexecuted I-94 Record.

Ex. 7, USCIS I-589 receipt notice.

Ex. 8, USCIS Employment Authorization Document, valid through June 27, 2029.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office for the Eastern District of Virginia
2100 Jamieson Ave
Alexandria, VA 22314

Pamela Bondi
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Office of the General Counsel
U.S. Department of Homeland Security
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Washington, DC 20528-0485

Jeffrey Crawford, Warden
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Respectfully submitted,

Dated: January 30, 2026

/s/ Leah Haynes
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