IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Betsasar Belzay ESTRADA URALIYU	§	
	§	
Petitioner,	§	
	§	
v.	§	
	§	
KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE U.S. DEPARTMENT OF HOMELAND SECURITY,	§	**Case No. 5:26-cv-595**
	§	
PAMELA BONDI, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL,	§	
	§	
TODD LYONS, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT,	§	
	§	
MIGUEL VERGARA, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE ICE SAN ANTONIO FIELD OFFICE, AND	§	
	§	
JOSE RODRIGUEZ JR., IN HIS OFFICIAL CAPACITY AS WARDEN OF THE DILLEY IMMIGRATION PROCESSING CENTER	§	
	§	
Respondents,	§	

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW Betsasar Belzay Estrada Uraliyu ("Petitioner"), by and through undersigned counsel, and respectfully petitions this Court for a writ of habeas corpus, requesting that the Court order her immediate release from Respondents' custody. In support thereof, Petitioner states as follows:

INTRODUCTION

1. Petitioner is in the physical custody of Respondents at the Dilley Immigration Processing Center in Dilley, Texas. She is unlawfully detained as a result of the Department of Homeland Security's ("DHS") revoking her order of release on recognizance ("ROR") while removal proceedings remain pending, despite providing no evidence that Petitioner violated any conditions of release.
2. Accordingly, Petitioner seeks a writ of habeas corpus ordering her immediate release from custody due to ongoing violations of her rights under the Immigration and Nationality Act and Due Process Clause of the Fifth Amendment.

JURISDICTION

3. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Dilley Immigration Processing Center, Dilley, Texas.
4. This action arises under 28 U.S.C. § 2241, U.S. Const., Art. I, § 9, Cl. 2 (the Suspension Clause), and the Fifth Amendment to the United States Constitution and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
5. This Court has subject matter jurisdiction pursuant to 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. This Court retains jurisdiction over Petitioner's claims because she is presently detained within this District. *See* Order, *Armstrong v. Warden, et al.*, No. 25-cv-203-H (W.D. Tex. Oct. 9, 2025) (ECF No. 4).

VENUE

6. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Western District of Texas, the

judicial district in which Petitioner is currently detained.

7. Venue is also proper pursuant to 28 U.S.C. § 1391(e) because Respondents are officers, employees, or agencies of the United States, Petitioner is detained at the Dilley Immigration Processing Center in Dilley, Texas, and a substantial part of the events or omissions giving rise to these claims occurred within the Western District of Texas.

8. Petitioner has exhausted all administrative remedies to the extent feasible. "[W]hen a petitioner's due process claim does not assert a procedural error correctable by the BIA, it is not subject to an exhaustion requirement." *Lopez de Jesus v. INS*, 312 F.3d 155, 162 n.47 (5th Cir. 2002). Exhaustion is also excused where delay would result in hardship. *See Shalala v. Illinois Council*, 529 U.S. 1, 13 (2000). Here, delay would result in months of continued unlawful detention.

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless it appears from the application that the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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).

10. Courts have long recognized the central importance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been described 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

11. **Petitioner, Betsasar Belzay Estrada Uraliyu,** is a native and citizen of Venezuela who has been in immigration detention since on or about December 1, 2025. Prior to her detention, Petitioner resided in Texas. Upon arresting Petitioner, Immigration and Customs Enforcement ("ICE") did not set a bond. Moreover, as a result of Respondents' detention policies and controlling agency decisions, Petitioner is precluded from requesting a bond hearing before an Immigration Judge, leaving her subject to continued detention without any opportunity for an individualized custody determination.

12. **Respondent Jose Rodriguez Jr.** in his official capacity as Warden of the Dilley Immigration Processing Center, has immediate physical custody of Petitioner pursuant to the facility's contract with ICE and is therefore Petitioner's immediate custodian for purposes of this habeas action.

13. **Respondent Miguel Vergara** is sued in his official capacity as Director of the San Antonio Field Office of Enforcement and Removal Operations ("ERO") of ICE. In that capacity, he is a legal custodian of Petitioner and has authority to effectuate her release from custody.

14. **Respondent Kristi Noem** is sued in her official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"). In that capacity, she is responsible for the administration and enforcement of the Immigration and Nationality Act and for oversight of ICE, the component agency responsible for Petitioner's detention. Accordingly, Respondent Noem is a legal custodian of Petitioner.

15. **Respondent Pam Bondi** is sued in her official capacity as Attorney General of the United States and chief law enforcement officer of the U.S. Department of Justice. In that capacity, she has authority over the Executive Office for Immigration Review ("EOIR"), which

administers the Immigration Courts and the Board of Immigration Appeals, and oversees the adjudication of removal proceedings. Accordingly, Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

16. Petitioner is a 21-year-old native and citizen of Venezuela. On or about September 3, 2023, she entered the United States without inspection and was apprehended by the Department of Homeland Security ("DHS") near the border.

17. Upon entry, Petitioner underwent a credible fear interview and was found to have a credible fear of persecution. She was subsequently served with a Notice to Appear dated September 17, 2023, charging her as removable under 8 U.S.C. § 1182(a)(6)(A)(i) and placing her in full removal proceedings pursuant to 8 U.S.C. § 1229a. ***See Exhibit A.***

18. On September 18, 2023, Petitioner was released into the United States on her own recognizance pending removal proceedings and was required to comply with multiple conditions of supervision imposed by DHS. ***See Exhibit B.***

19. Petitioner has no criminal convictions that would render her ineligible for relief. She timely filed an I-589 Application for Asylum and Withholding of Removal, which remains pending.

20. On or about December 1, 2025, Petitioner was arrested by Immigration and Customs Enforcement ("ICE") while appearing for a scheduled appointment and fully complying with her ICE reporting obligations. At the time of her re-arrest, Petitioner's removal proceedings remained pending. ICE provided no notice, justification, or individualized explanation for Petitioner's re-detention, and identified no violation of conditions on release that would warrant revocation of her ROR. Petitioner was taken into custody

despite full compliance with DHS's order of supervision and without articulated cause. This arbitrary re-detention violates Petitioner's right to due process under the Fifth Amendment.

21. Following Petitioner's arrest and transfer to the Dilley Immigration Processing Center in Dilley, Texas, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

22. The Petitioner remains in detention. Absent relief from this Court, she faces prolonged immigration detention while litigating her claims for asylum and withholding of removal in removal proceedings.

LEGAL FRAMEWORK

The Statutory Framework for Immigration Detention

23. The Immigration and Nationality Act ("INA") prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

24. First, 8 U.S.C. § 1226 governs the detention of noncitizens in standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a. Individuals detained under § 1226(a) are generally 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 enumerated offenses are subject to mandatory detention under 8 U.S.C. § 1226(c).

25. 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).

26. Lastly, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

27. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

28. DHS has the authority to release the Petitioner under 8 U.S.C. 1182 (d)(5)(A) for humanitarian reasons.

29. Detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, div. C, §§ 302–03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently amended by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

30. Following the enactment of the IIRIRA, the Executive Office for Immigration Review ("EOIR") promulgated implementing regulations explaining that, as a general matter, individuals who entered the United States without inspection were not detained pursuant to 8 U.S.C. § 1225, but instead were detained under 8 U.S.C. § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

31. Accordingly, for decades following IIRIRA's enactment, individuals who entered the United States without inspection and were placed in standard removal proceedings routinely received bond hearings, unless their criminal history rendered them ineligible for release. This practice was consistent with longstanding pre-IIRIRA procedures, under which noncitizens who were not classified as "arriving aliens" were entitled to a custody hearing before an Immigration Judge 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) (explaining that § 1226(a) merely "restates" the detention authority previously codified at § 1252(a)).

32. On July 8, 2025, ICE, "in coordination with" the DOJ, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended (i.e. at the border or in the interior of the United States), and affects those who have resided in the United States for months, years, and even decades.

33. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after Immigration Judges in Tacoma, Washington, stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025).

34. Since then, federal courts throughout the United States have agreed with the Western District of Washington and granted preliminary injunctive relief for petitioners who entered the United States without inspections. *See Padron Covarrubias v. Vergara*,

5:25-CV-112 (S.D. Tex. Oct. 8, 2025) (citing an extensive list of federal courts coming to the same conclusion as the Western District of Washington).

35. DHS's and DOJ's interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to individuals who entered the United States without inspection and were released into the interior to complete removal proceedings.

36. Here, Petitioner was initially detained shortly after entering the United States without inspection pursuant to 8 U.S.C. § 1225(b). Although she was found to have a credible fear of persecution, she was not placed in expedited removal proceedings. Instead, on September 18, 2023, DHS released her into the United States on her own recognizance and placed her in standard removal proceedings under 8 U.S.C. § 1229a. Under the plain language of the statute, individuals placed in standard removal proceedings are subject to the detention framework set forth in 8 U.S.C. § 1226.

37. She thereafter resided in the community for more than two-years before being re-apprehended. Accordingly, at the time of her re-arrest on or about December 1, 2025, Petitioner was no longer "seeking admission" within the meaning of 8 U.S.C. § 1225, and any subsequent detention authority must arise under 8 U.S.C. § 1226. Moreover, Petitioner's re-detention occurred without any identified violations on conditions of release or articulated basis for termination of ROR. The revocation of ROR and re-detention under these circumstances, without notice, explanation, or individualized justification, is arbitrary and violates Petitioner's right to due process under the Fifth Amendment.

38. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

39. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *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). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

40. 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.

41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or at the U.S. border. The framework of § 1225(b)(2) is premised on inspections at the border of "applicant[s] for admission" who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

42. Furthermore, the INA defines "admission," to mean "the lawful entry… into the United States after inspection and authorization by an immigration officer." 8 U.S.C. §

1101(a)(13)(A). As courts have reasoned, even though an applicant for admission has not been "admitted" to the United States, it does not mean that they always continue to be actively seeking a lawful entry (i.e. seeking admission). *Jimenez v. FCI Berlin, Warden*, 2025 WL 2639390, at *21 (D.N.H. Sept. 8, 2025). An applicant for admission can enter the country, and therefore no longer seek entry, lawfully or otherwise, but rather seek "a lawful means to remain here." *Id.* at *22. Therefore, § 1225(b)(2)(A) cannot apply to someone who has already entered the United States and has been residing here for a period of time.

43. Under 8 U.S.C. § 1182(d)(5)(A), DHS may, in its discretion, grant parole into the United States to a noncitizen on a case-by-case basis for urgent humanitarian reasons or significant public benefit. Once parole has been granted, and absent a material change in circumstances, termination of parole is not warranted while removal proceedings are pending.

44. Although 8 U.S.C. § 1225(b)(1) provides for mandatory detention of certain arriving aliens pending credible fear and expedited removal proceedings, it does not govern the detention of a respondent who has been paroled or released into the United States and has resided continuously in the community for an extended period. Here, Petitioner was not processed under § 1225(b)(1) as she was not placed in expedited removal proceedings. She was issued a credible fear interview and released ROR after establishing credible fear of persecution or torture on September 18, 2003. On September 17, 2023, she was issued a Notice to Appear and placed in removal proceedings under § 1229. Accordingly, any subsequent re-apprehension must be governed by 8 U.S.C. § 1226, which authorizes

discretionary detention during standard removal proceedings and provides for individualized custody determinations.

45. Section 1225(b)(1) channels detention authority toward individuals who are in the midst of initial inspection and credible fear processing, not toward individuals who have already been released into the United States and placed in ordinary removal proceedings. Once release has been granted and the individual has established long-term presence in the community, continued reliance on § 1225(b)(1) constitutes statutory overreach and is inconsistent with the statute's narrow focus on expedited removal and credible fear screening. See 8 U.S.C. § 1225(b)(1) (mandating detention only pending credible fear and removal determinations).

46. Detention authority for those who have not yet been issued final removal orders is divided between two sections of the INA, 8 U.S.C. §§ 1225 and 1226. The Supreme Court recently analyzed the interplay between §§ 1225 and 1226 in *Jennings v. Rodriguez*. The first sentence of the Court's decision distinguishes between decisions made at the border and those made internally:

> Every day, immigration officials must determine whether to admit or remove the many [non-citizens] who have arrived at an official "port of entry" (e.g., an international airport or border crossing) or who have been apprehended trying to enter the country at an unauthorized location. Immigration officials must also determine on a daily basis whether there are grounds for removing any of the [non-citizens] who are already present inside the country.

583S. at 285

47. The Court subsequently explained: "In sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c)." Id. at 289 (emphasis added).

48. Section 1225(a)(1), inter alia, defines "applicants for admission" as noncitizens "present in the United States who have not been admitted." Relevant here, § 1225(b)(2)(A) provides that, "in the case of a [noncitizen] who is an applicant for admission, if the examining immigration officer determines that a [noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] shall be detained for a proceeding under section 1229(a) of this title." 8 U.S.C. § 1225(b)(2)(A). Section 1229(a) sets forth the procedures governing standard, non-expedited removal proceedings.

49. Petitioner remains in detention. Absent relief from this Court, she faces prolonged immigration detention while litigating her claims for asylum and withholding of removal in removal proceedings.

50. Petitioner's detention, without any individualized review, is unreasonable under the *Mathews v. Eldridge* due process test. Alternatively, Petitioner prevails under the multi-factor reasonableness test the Third Circuit adopted in *German Santos v. Warden Pike Correctional Facility*, 965 F.3d 203, 211 (3d Cir. 2020).

51. The Supreme Court, in assessing procedural due process claims *under Mathews v. Eldridge*, balances: (1) the private interest affected by the governmental action; (2) the risk of an erroneous deprivation of such interest and the probable value of additional or substitute procedural safeguards; and (3) the government's interest, including the function

involved and the fiscal and administrative burdens that additional procedures would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *see also Salesh P.*, 2022 WL 17082375, at *8 (collecting cases in which courts in the Northern District of California applied the Mathews factors to immigration habeas petitioners' due process claims). Here, each factor weighs in Petitioner's favor, requiring this Court to order prompt individualized review to determine whether the government can justify her continued detention.

52. First, Petitioner has a substantial and compelling interest in her physical liberty, which is the core private interest at stake in this case. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom 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."). Petitioner is being held in incarceration-like conditions and therefore has an overwhelming liberty interest regardless of the duration of her detention, because "any length of detention implicates the same fundamental rights." *Rajnish v. Jennings*, No. 3:20-cv-07819-WHO, 2020 WL 7626414, at *6 (N.D. Cal. Dec. 22, 2020).

53. Second, Petitioner faces a substantial risk of erroneous deprivation of her liberty in the absence of an individualized evidentiary hearing. That risk is particularly high because she has been detained since October 25, 2025, without any evaluation of whether the government can justify her continued detention based on her individualized circumstances. As courts have recognized, "the risk of an erroneous deprivation of liberty in the absence of a hearing before a neutral decisionmaker is substantial." *Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011). Conversely, "the probable value of additional procedural safeguards—an individualized evaluation of the justification for [detention]—is high, because Respondents have provided virtually no procedural safeguards at all." *Jimenez v.*

Wolf, No. 19-cv-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020) (granting habeas relief where petitioner had been detained for approximately one year without a bond hearing).

54. Third, the government's interest in continuing to detain Petitioner without providing any neutral, individualized review is minimal. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). The interest at stake is not the government's general authority to detain noncitizens during removal proceedings, but rather its asserted ability to detain Petitioner for an extended period without any individualized custody determination. Courts have consistently recognized that this interest is weak. *See Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 964 (N.D. Cal. 2019); *Henriquez v. Garland*, No. 5:22-CV-00869-EJD, 2022 WL 2132919, at *5 (N.D. Cal. June 14, 2022). By contrast, the administrative burden of providing an individualized bond hearing is minimal, particularly because Immigration Judges routinely conduct such hearings in other detention contexts. *See Henriquez*, 2022 WL 2132919, at *5. Indeed, the government has repeatedly conceded that the cost and burden of providing bond hearings are slight. *See Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019); Singh v. Barr, 400 F. Supp. 3d 1005, 1021 (S.D. Cal. 2019); *Marroquin Ambriz*, 420 F. Supp. 3d at 964.

55. In sum, the *Mathews* factors establish that Petitioner is entitled to an evidentiary hearing before a neutral adjudicator. Courts applying these principles have repeatedly held that prolonged immigration detention without an individualized custody hearing violates procedural due process, even where detention is authorized by statute. See, e.g., *Romero Romero v. Wolf*, No. 20-CV-08031-TSH, 2021 WL 254435, at *2, *5 (N.D. Cal. Jan. 26, 2021) (holding that detention under § 1226(c) for just over one year without a custody

hearing was "not compatible with due process" and granting habeas relief); *Jimenez v. Wolf*, No. 19-CV-07996-NC, 2020 WL 510347, at *1, *2, *4 (N.D. Cal. Jan. 30, 2020) (granting habeas where petitioner was detained under § 1226(c) for approximately one year without a bond hearing); *Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, at *1, *5 (N.D. Cal. Jan. 25, 2019) (same). This Court should likewise conclude that Petitioner's continued detention without an individualized custody determination violates due process and order her immediate release or, at minimum, a prompt bond hearing before an Immigration Judge.

56. Lastly, a U.S. District Court (C.D. Cal.) held that many individuals detained after entering without inspection are not "applicants for admission" under INA § 235(b)(2) merely because of presence in the U.S., and thus ICE cannot categorically deny bond hearings for them. Instead, these individuals are detained under INA § 236(a), which authorizes immigration judges to conduct custody redetermination (bond) hearings. *See Lazaro Maldonado Bautista, et al. v. Ernesto Santacruz Jr., et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025).

57. The Court granted the Plaintiffs' motion for class certification, creating a nationwide class of bond-eligible noncitizens who entered the United States without inspection, were later detained, and are now being subjected to mandatory detention statutes. The court held that class members are entitled to bond hearings under 8 U.S.C. § 1226(a), rather than being treated as mandatory detainees under 8 U.S.C. § 1225(b)(2)(A). *Id.*

58. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered the United States after release on recognizance by DHS and were residing in the United States for a period of time.

CLAIMS FOR RELIEF

COUNT I
Violation of the Immigration and Nationality Act

59. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

60. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply categorically to all noncitizens residing in the United States who are charged with grounds of inadmissibility. As relevant here, § 1225(b)(2) does not govern the detention of individuals who allegedly entered the United States without inspection but were subsequently released into the interior and placed in standard removal proceedings under 8 U.S.C. § 1229a. Such individuals are detained pursuant to 8 U.S.C. § 1226(a), unless they fall within a distinct statutory category mandating detention, such as 8 U.S.C. §§ 1225(b)(1), 1226(c), or 1231.

61. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner is contrary to the Immigration and Nationality Act and unlawfully mandates her continued detention without eligibility for bond. Because Petitioner's detention is governed by 8 U.S.C. § 1226(a), Respondents' refusal to afford her an individualized custody determination violates the INA.

COUNT II
Fifth Amendment Substantive Due Process
28 U.S. § 2241; U.S. Const. Art. I, § 9, cl. 2; amend. V

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

63. 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 (2001). (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Detention for non-criminal purposes is only allowed "in narrow nonpunitive circumstances, where a special justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (internal quotations and citations omitted). With respect to immigration detention, the Supreme Court has recognized two special justifications: preventing flight risk and preventing danger to the community. See *Id.*

64. Substantive due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 301-02 (1993). "Substantive due process analysis must begin with a careful description of the asserted right." *Id.* at 302.

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

66. The government's detention of Petitioner without a bond redetermination hearing to assess whether she poses a flight risk or a danger to the community violates her right to due process.

PRAYER FOR RELIEF

67. WHEREFORE, Petitioner prays that this Court grant the following relief:

    a. Assume jurisdiction over this matter;

    b. Declare that the actions of Respondents as set forth in this Petition violate the Fifth Amendment, of the United States Constitution, 28 U.S.C. § 2241.

c. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner along with any original identification documents or personal property in ICE's possession.

d. Declare that Petitioner's re-detention while removal proceedings remain pending violates the Fifth Amendment;

e. Enjoin the Respondents from transferring Petitioner to another detention facility;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

Dated this 30th of January 2026,

Respectfully submitted,

/s/ Karina Roque
Karina Roque
Texas State Bar No. 24118516
The Presti Law Firm PLLC
9330 Lyndon B Johnson Freeway,
Suite 825
Dallas, TX 75243
F : (214) 342-8900
kr@prestilegal.com

Attorney for Petitioner

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

I represent Petitioner Betsasar Belzay Estrada Uraliyu, 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 30th day of January, 2026.

/s/ Karina Roque
Karina Roque
Attorney for Petitioner