Halimatou Bah, Esq. Bar N. 24130178
Angeles Law LLC
2112 Broadway St NE STE 225 #53
Minneapolis, MN 55413
T: (321) 795-0568
halimatou@abogadoangeles.com
Attorney for Petitioner

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

KATHERINE DEL SOCORRO MEZA-LOPEZ,

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; **PAMELA BONDI**, in her official capacity as Attorney General of the United States; **TODD LYONS**, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement; **MIGUEL VERGARA**, in his official capacity as Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; **ROSE THOMPSON**, in her official capacity as Warden of the Karnes County Immigration Processing Center

Respondents.

Case No. 5:26-cv-00599

PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

1. Petitioner, KATHERINE DEL SOCORRO MEZA-LOPEZ, by and through undersigned counsel, Halimatou Bah of Angeles Law LLC, respectfully petitions this Honorable Court for a *writ of habeas corpus* pursuant to 28 U.S.C. § 2241 to challenge her ongoing and unlawful civil immigration detention by the United States Department of Homeland Security and its agents. Petitioner is a 34-year-old Nicaraguan citizen currently detained at Karnes County Immigration Processing Center, located at 409 FM 1144, Karnes City, Texas 78118, within the Western District of Texas.
2. Petitioner entered the United States on November 17, 2020, sought protection from persecution, and was placed into full removal proceedings. She is not subject to mandatory detention under any provision of the Immigration and Nationality Act
3. On December 10, 2025, Immigration and Customs Enforcement ("ICE") detained Petitioner during a routine ICE check-in appointment, despite her compliance with reporting requirements and the absence of any criminal history.
4. On January 27, 2026, the Immigration Judge denied jurisdiction to consider bond, expressly concluding that the Court lacked authority to conduct a custody redetermination pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and incorrectly applying *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019) as a pretext to prevent a *habeas* challenge. Based on this jurisdictional ruling, the Immigration Judge determined that no bond hearing was available and therefore did not consider—or have authority to consider—any individualized custody factors, including danger to the community, risk of flight, community ties, or alternatives to detention.
5. Petitioner is subject to pre-final order of removal detention under 8 U.S.C. § 1226(a). Noncitizens detained under section 1226(a) are subject to discretionary detention and may

request a change-of-custody redetermination, commonly known as a bond hearing, before an Immigration Judge.

6. Despite this statutory framework, DHS has taken the position that—based on *Matter of Yajure Hurtado*—the Immigration Court lacks jurisdiction to conduct a bond hearing in Petitioner's case, thereby depriving her of any meaningful opportunity to seek release and leaving her detained without meaningful due process.

7. As a result of this categorical denial, Petitioner now faces prolonged and potentially indefinite detention without any meaningful opportunity for an individualized custody review. Petitioner is actively pursuing her asylum, withholding of removal, and protection under the Convention Against Torture before the Immigration Court, and remains eligible for discretionary release under 8 U.S.C. § 1226(a). Despite her pending claims for relief and eligibility for discretionary release under 8 U.S.C. § 1226(a), DHS continues to detain her without providing a constitutionally sufficient bond hearing before a neutral adjudicator empowered to grant release.

8. Petitioner's continued detention without a bond hearing violates Petitioner's Fifth Amendment Due Process rights and the Immigration and Nationality Act ("INA"). DHS's position—endorsed through reliance on *Matter of Yajure Hurtado*—has eliminated bond jurisdiction under § 1226(a) and resulted in prolonged civil detention without adequate procedural safeguards.

9. Petitioner seeks immediate release, or in the alternative, an order directing Respondents to provide her with a constitutionally adequate bond hearing under 8 U.S.C. § 1226(a) before a neutral decisionmaker with authority to grant release. For the foregoing reasons, the Court should grant habeas relief and direct Respondents to release Petitioner, or in the alternative promptly provide her with a constitutionally adequate bond hearing within seven (7) days.

FACTUAL BACKGROUND

10. Petitioner KATHERINE DEL SOCORRO MEZA-LOPEZ is a 34-year-old Nicaraguan citizen and national. Petitioner has no criminal convictions and no history of violence or dangerous behavior. Petitioner has no pending criminal charges and no prior criminal history. She has otherwise consistently demonstrated compliance with immigration authorities throughout her immigration proceedings.

11. Petitioner entered the United States on November 17, 2020, sought protection from persecution, and was subsequently found to have a favorable credible fear determination, after which she was placed into full removal proceedings. Petitioner was determined to be a citizen of Nicaragua and did not possess valid documents permitting entry into the United States.

12. Following her entry, Petitioner was issued a Notice to Appear and placed into removal proceedings under section 240 of the Immigration and Nationality Act. She thereafter filed an application for asylum, withholding of removal, and protection under the Convention Against Torture and has remained in compliance with all requirements of her immigration case.

13. On December 10, 2025, Petitioner was transferred into Immigration and Customs Enforcement ("ICE") after appearing for a scheduled ICE appointment, where she has remained detained while her removal proceedings are ongoing.

14. On January 27, 2026, Petitioner appeared before the Immigration Court in Pearsall, Texas, seeking a custody redetermination. Through counsel, she requested an individualized custody determination pursuant to 8 U.S.C. § 1226(a). The Immigration Judge denied the request on jurisdictional grounds, expressly concluding that the Court lacked authority to conduct a bond hearing. Relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA

2025) and incorrectly applying *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019) as a pretext to prevent a habeas challenge, the Immigration Judge determined that no custody redetermination was available and therefore did not consider any individualized factors relevant to custody, including danger, flight risk, community ties, or alternatives to detention.

15. Petitioner is currently detained at Karnes County Immigration Processing Center, located at 409 FM 1144, Karnes City, Texas 78118, within the Western District of Texas. She has remained in continuous civil immigration detention since December 10, 2025, despite having no criminal convictions, no disciplinary infractions while in custody, and no evidence suggesting that she poses a danger to the community or a risk of flight.

16. Petitioner has fully complied with all requirements of her removal proceedings and continues to pursue asylum, withholding of removal, and protection under the Convention Against Torture in good faith. Her removal proceedings remain pending before the Immigration Court.

17. Petitioner's ongoing detention—without any opportunity for an individualized custody determination and based solely on a categorical jurisdictional ruling—has resulted in prolonged and potentially indefinite civil confinement. Her detention under restrictive, penal-like conditions, despite her compliance with immigration authorities and lack of criminal convictions, violates fundamental principles of due process and statutory protections under the Immigration and Nationality Act.

18. Petitioner has now been held in civil immigration detention since December 10, 2025, without any meaningful mechanism to seek release, notwithstanding her eligibility for discretionary detention under 8 U.S.C. § 1226(a) and her pending applications for humanitarian protection.

JURISDICTION

19. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of her ongoing civil immigration detention and seeks relief that is within the traditional scope of habeas corpus. Jurisdiction also lies under 28 U.S.C. § 1331, as this Petition raises federal questions arising under the Constitution, laws, and treaties of the United States. The Suspension Clause of the United States Constitution further guarantees Petitioner's right to seek habeas corpus review where no other adequate remedy exists.

20. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651. Congress has preserved judicial review of challenges to immigration detention, including claims raising statutory and constitutional questions. See, e.g., *Nielsen v. Preap*, 139 S. Ct. 954, 961–62 (2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (distinguishing reviewable legal and constitutional claims from unreviewable discretionary determinations under 8 U.S.C. § 1226(e)).

21. Federal district courts have jurisdiction to hear habeas corpus claims brought by noncitizens challenging the lawfulness of their immigration detention. See *Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over challenges to immigration detention); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (same).

22. Although 8 U.S.C. § 1226(e) bars review of the Attorney General's discretionary judgments regarding the release or detention of noncitizens, it does not preclude judicial review of questions of law or constitutional claims arising from immigration detention. Petitioner does not ask this Court to second-guess a discretionary bond determination.

Rather, she challenges the Department of Homeland Security's legal authority to deny her any bond hearing and to continue detaining her without a constitutionally adequate individualized custody determination, based on a categorical jurisdictional bar. Such claims fall squarely within the scope of habeas review. The Supreme Court has long recognized that federal courts retain habeas jurisdiction to review the statutory and constitutional bases of immigration detention notwithstanding jurisdiction-stripping provisions, as such review lies at the core of the Great Writ. See *Demore v. Kim*, 538 U.S. at 516–17; *Zadvydas v. Davis*, 533 U.S. at 687–88.

23. No petition for a *writ of habeas corpus* has previously been filed in any court regarding Petitioner.

VENUE

24. 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, San Antonio Division, the judicial district in which Petitioner is currently detained and where her immediate custodian at the Karnes County Immigration Processing Center exercises control over her confinement.

25. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims—including Petitioner's detention and the denial of bond jurisdiction—occurred within the Western District of Texas.

PARTIES[1]

[1] In *Rumsfeld v. Padilla*, the Supreme Court addressed the identity of the proper respondent to a § 2241 habeas petition filed by a U.S. citizen challenging his detention as an enemy combatant. 542 U.S. 426 (2004). The Court held that the only appropriate respondent for a traditional habeas corpus petition involving a "core challenge" to "present physical confinement" is the individual's "immediate custodian," meaning the person in charge of the facility where the individual is being held *Id.* at 435. In that case, the immediate custodian was the commanding officer in

26. Petitioner KATHERINE DEL SOCORRO MEZA-LOPEZ is a citizen and national of Nicaragua who has been in immigration detention since December 10, 2025. Petitioner was not arrested by local law enforcement and was not taken into custody following any criminal incident. On December 10, 2025, Immigration and Customs Enforcement ("ICE") took Petitioner into immigration custody after she appeared for a scheduled ICE appointment. Petitioner requested a review of her custody by an Immigration Judge. On January 27, 2026, an Immigration Judge at the Pearsall Immigration Court denied jurisdiction to consider bond, expressly concluding that the Court lacked authority to conduct a custody redetermination pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). As a result of this ruling, no individualized custody determination was conducted. Petitioner entered the United States on or about November 17, 2020, and her removal proceedings remain pending.

27. 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 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 and custody. Respondent is a legal custodian of Petitioner.

28. 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

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charge of the naval brig where the petitioner was physically held. *Id.* at 442. The Supreme Court also made it clear that it would not address who the proper respondent would be for a petition filed by a noncitizen "detained pending deportation." The Court noted a disagreement among different circuit courts regarding whether the Attorney General is a proper respondent to a habeas petition in such cases and stated, "Because the issue is not before us today, we again decline to resolve it" *Id.* at 435 n.8.

Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent is a legal custodian of Petitioner.

29. Respondent **Todd Lyons** is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). In this capacity, Respondent is a legal custodian of Petitioner and possesses authority over ICE detention policies, including the authority to release Petitioner from custody. He is sued in his official capacity.

30. Respondent **Miguel Vergara** is sued in his official capacity as the Field Office Director of ICE's Enforcement and Removal Operations ("ERO") for the San Antonio Field Office. As such, Respondent is responsible for overseeing Petitioner's detention and custody within the San Antonio Area of Responsibility and exercises authority over Petitioner's continued confinement. He is a legal custodian of Petitioner.

31. Respondent **Rose Thompson** is employed as the Warden of the Karnes County Immigration Processing Center in Karnes City, Texas, the facility where Petitioner is currently detained. Respondent Guerrero has immediate physical custody of Petitioner and is sued in his official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

32. Petitioner has no administrative remedies to exhaust.

33. Petitioner's request for custody redetermination was denied solely due to lack of jurisdiction by the Immigration Judge, based on DHS's classification of Petitioner as subject to mandatory detention under INA § 235(b).

34. As such, Petitioner's continued detention in ICE custody cannot be challenged by way of bond proceedings before the Immigration Judge, as the Immigration Court has expressly determined it has no authority to consider bond.

35. Therefore, a *writ of habeas corpus* is the sole avenue to vindicate Petitioner's constitutional, statutory, and regulatory rights and to restore her liberty.

LEGAL FRAMEWORK

36. The INA prescribes three basic forms of detention for noncitizens in removal proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard, non-expedited removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1226(a); 8 U.S.C. § 1229a. Individuals in section 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).

37. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1), as well as for other arriving noncitizens seeking admission who are referred under 8 U.S.C. § 1225(b)(2).

38. Finally, the Act also provides for the detention of noncitizens who have previously been ordered removed, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

39. The detention provisions at section 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(c) was most recently amended earlier this year by the LRA, Pub. L. No. 119-1, 139 Stat. 3 (2025).

40. Following enactment of IIRIRA, the Executive Office for Immigration Review drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under section 1225 but were instead detained under section

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). In the decades that followed, most noncitizens who entered without inspection—unless they were subject to some other detention authority—received bond hearings. This practice was also consistent with pre-IIRIRA procedure, in which noncitizens not deemed "arriving" 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) (noting that section 1226(a) simply "restates" the detention authority previously found at section 1252(a)).

41. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement ("ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226], is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." The memo further stated DHS' new position with regard to custody determinations as follows:

> An "applicant for admission" is an alien 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. INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated.

> **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**
>
> Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286. *See* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authorityfor-applications-for-admission (last accessed August 4, 2025) (emphasis original).

42. As a result, DHS now considers all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including longtime U.S. residents, are now considered to be subject to mandatory detention under section § 1225(b) and ineligible for release on bond. Conversely, according to DHS "[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, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." *Id.*

43. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that, based on the plain language of 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to noncitizens who are present in the United States without admission.

COUNT I: UNLAWFUL DETENTION IN VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT ("INA") AND IMPLEMENTING REGULATIONS

44. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

45. The Immigration and Nationality Act authorizes immigration detention only when it serves a legitimate statutory purpose—namely, to ensure an individual's appearance at future proceedings or to protect public safety. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Clark v. Martinez*, 543 U.S. 371, 381 (2005). Detention that does not advance those purposes, or that becomes arbitrary and indefinite, exceeds the government's statutory authority.

46. Petitioner is a citizen and national of Nicaragua who entered the United States on or about November 17, 2020, and sought protection from persecution, and was placed into removal proceedings under section 240 of the Immigration and Nationality Act following a favorable credible fear determination in which she was placed into full removal proceedings. Her asylum, withholding of removal, and Convention Against Torture applications remain pending.

47. Petitioner has no criminal convictions and no record of violence, and has never exhibited conduct suggesting danger to the community or risk of flight. Nothing in her immigration file indicates that she poses a threat to public safety or that she would fail to appear for her hearings if released.

48. Petitioner has been detained continuously since December 10, 2025, when she was taken into ICE custody after appearing for a scheduled ICE appointment, and confined at the Karnes County Immigration Processing Center in Karnes City, Texas.

49. On January 27, 2026, the Immigration Court denied Petitioner's request for a custody redetermination solely on jurisdictional grounds. The Immigration Judge concluded that the Court lacked authority to consider bond, relying on *Matter of Yajure Hurtado* and

incorrectly applying *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019)[2] as a pretext to prevent a habeas challenge. Furthermore, the Immigration Judge erred[3] in concluding that Respondent, an individual who has resided in the United States for multiple years, is still subject to expedited removal. According to the Immigration Judge, Petitioner was deemed ineligible for a bond hearing based on a categorical jurisdictional determination, rather than an individualized custody assessment.

50. The Immigration Judge did not consider any individualized custody factors and did not evaluate Petitioner's lack of criminal history, her non-dangerousness, her cooperation with immigration authorities, or the feasibility of alternatives to detention.

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[2] *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), addressed a narrow custody question: whether noncitizens who are initially placed in expedited removal under INA § 235(b)(1), then found to have a credible fear and transferred into full INA § 240 removal proceedings, are eligible for bond under INA § 236(a). The Attorney General held that such individuals remain detained "under § 235(b)(1), not § 236(a)," and therefore must be kept in custody "through completion of the full § 240 removal proceedings" unless DHS affirmatively grants parole under INA § 212(d)(5)(A), with immigration judges lacking bond jurisdiction over this mandatory-detention class. *Id.* Critically, however, *M-S-* presupposes that the noncitizen remains in detention as an "applicant for admission" governed by § 235(b)(1) and asks only whether transfer to § 240 proceedings, standing alone, converts that detention to § 236(a) bond custody. Once DHS has, in fact, exercised its separate statutory authority under § 212(d)(5)(A) to parole an individual "for urgent humanitarian reasons or significant public benefit" and has released that person into the United States, custody is no longer being maintained under § 235(b)(1), and the question answered in *M-S-*—whether a detained § 235(b)(1) noncitizen who passed credible fear becomes newly eligible for IJ bond by virtue of being placed in § 240 proceedings—simply does not arise. At that point, the individual is no longer within the mandatory-detention framework that *M-S-* construes (continued detention under § 235(b)(1) absent parole), but instead is present in the United States on parole under § 212(d)(5)(A), a distinct statutory status that *M-S-* expressly recognizes as the sole exception to the detention regime it interprets and that, by definition, presupposes release from custody rather than ongoing mandatory detention.

[3] The government's initiation of expedited removal proceedings under INA § 235(b)(1) does not result in a lasting removal order where the noncitizen establishes a credible fear and is then placed into full removal proceedings. Under the regulations governing credible fear review, if an immigration judge (IJ) determines that a non-stowaway "possesses a credible fear of persecution or torture, the immigration judge shall vacate the Notice and Order of Expedited Removal and refer the case back to DHS for further proceedings" under INA § 240. *See* § 1208.30; 8 CFR § 1208.30. In practice, DHS and EOIR implement this by treating a positive credible-fear finding as a basis to proceed "in lieu of expedited removal" under the formal § 240 removal framework, with the individual afforded the same rights and opportunities for relief as any other respondent in § 240 proceedings. Where the credible-fear determination is positive at either the asylum-officer or IJ stage, the Form I-860, Notice and Order of Expedited Removal, is not issued or, if previously issued, is vacated and not executed, so that any subsequent removability determination rests on the later § 240 order rather than on an expedited-removal order. *See* 8 CFR § 1208.30; 8 CFR § 208.30.

51. Because the Immigration Judge determined that he lacked jurisdiction, Petitioner now has no administrative mechanism for custody review, effectively subjecting her to prolonged and potentially indefinite detention without statutory authority or procedural safeguards.

52. The INA does not authorize the indefinite detention of a noncitizen in pending section 240 proceedings who poses no danger or flight risk and who has never received a custody hearing before a neutral decisionmaker. *See Zadvydas,* 533 U.S. at 690–91; *Clark,* 543 U.S. at 380–81.

53. Petitioner's continued confinement serves no legitimate statutory purpose. Her detention bears no reasonable relation to ensuring her appearance or protecting public safety, and it is not tied to any imminent removal, particularly while her removal proceedings remain pending.

54. Petitioner's ongoing detention—without individualized assessment, without lawful statutory justification, and without any ability to seek review—exceeds the narrow detention authority granted by Congress and violates controlling Supreme Court precedent.

55. Accordingly, Petitioner's continued detention is unlawful under the Immigration and Nationality Act, its implementing regulations, and governing constitutional principles. Petitioner respectfully requests that this Court order her immediate release, or, in the alternative, require the government to provide a constitutionally adequate custody hearing before an Immigration Judge with authority to order release on bond.

COUNT II: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

56. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

57. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Noncitizens physically present in the United States—including those who entered without inspection—are entitled to full procedural due process protections. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982).

58. Petitioner is a citizen and national of Nicaragua who entered the United States on November 17, 2020, sought protection from persecution, and was placed in removal proceedings under section 240 of the Immigration and Nationality Act following a favorable credible fear determination in which she was placed into full removal proceedings.

59. Petitioner has no criminal convictions and no record of violence, and has never exhibited conduct suggesting danger to the community or risk of flight, and has consistently cooperated with immigration authorities since her apprehension.

60. Petitioner has been detained continuously since December 10, 2025, when she was taken into ICE custody after appearing for a scheduled ICE appointment, and confined at the Karnes County Immigration Processing Center in Karnes City, Texas.

61. On January 27, 2026, Petitioner sought a custody redetermination before the Pearsall Immigration Court. Through counsel, she requested an individualized custody determination and proffered evidence establishing that she poses no danger to the community, has strong community ties and a stable place to reside, and is fully willing to comply with all immigration court requirements.

62. The Immigration Judge denied bond on January 27, 2026, solely on jurisdictional grounds, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and incorrectly

applying Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019) as a pretext to prevent a habeas[4] challenge. Furthermore, the Immigration Judge erred in concluding that Respondent, an individual who has resided in the United States for years, is still subject to expedited removal. The Immigration Judge concluded that he lacked authority to conduct any individualized custody assessment and therefore declined to consider Petitioner's eligibility for release.

63. As a result, Petitioner has been categorically barred from receiving a hearing before a neutral adjudicator to determine whether her detention is justified. She has been denied the opportunity to present evidence, contest the government's assertions, or obtain a meaningful review of her custody.

64. Immigration detention implicates a fundamental liberty interest. Prolonged detention without a meaningful opportunity to challenge confinement violates the core due process guarantees of notice, the right to be heard, and adjudication by a neutral decisionmaker.

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[4] The Government's reliance on the labels "expedited removal" and "*Matter of M-S-*" does not bar this Court from exercising habeas jurisdiction over Petitioner's custody. Section 1225(b) governs mandatory detention of "arriving" and similar applicants for admission during expedited removal and credible fear processing, but it does not displace the availability of habeas review to challenge the statutory and constitutional basis of detention itself. *See* 8 U.S. Code § 1225. Nor do the INA's jurisdiction-stripping provisions in 8 U.S.C. § 1252 eliminate core habeas review of physical custody; the Supreme Court has repeatedly held that limits on review of "discretionary judgment" or on challenges to removal orders do not preclude § 2241 petitions contesting whether the detention statute authorizes continued confinement or whether prolonged detention comports with due process. *See Department of Homeland Security v. Thuraissigiam*, 591 U.S. ___ (2020); *INS v. St. Cyr*, 533 U.S. 289 (2001); *Boumediene v. Bush*, 553 U.S. 723 (2008); *Zadvydas v. Davis*, 533 U.S. 678 (2001). Further, *Jennings* confirms the basic statutory structure in which § 1225 covers "aliens seeking admission" at or near the border, while § 1226 governs detention of "aliens already in the country." 583 U.S. ___ (2018). Lower courts have relied on that distinction to hold that noncitizens with established residence in the United States—like Petitioner—cannot be treated as § 1225(b) "arriving" aliens for mandatory, parole-only detention and instead fall under § 1226, where detention is subject to bond and traditional habeas review. *See Granados v. Noem et al*, No. 5:2025cv01464 - Document 8 (W.D. Tex. 2025); *Suarez-Duarte v. Harper*, No. 2:2025cv03142 - Document 8 (W.D. Tenn. 2026). Because Petitioner is physically present in the United States and seeks the classic habeas remedy of release from allegedly unlawful civil confinement—not additional asylum procedures or admission—this case lies at the historical core of the writ and remains cognizable under 28 U.S.C. § 2241 notwithstanding the Government's erroneous invocation of "expedited removal" and *Matter of M-S-*. *See Demore v. Kim*, 538 U.S. 510 (2003); *INS v. St. Cyr*, 533 U.S. 289 (2001); *Boumediene v. Bush*, 553 U.S. 723 (2008).

65. The government's reliance on a categorical jurisdictional bar to deny Petitioner any opportunity for individualized review contravenes these constitutional protections and results in arbitrary, unjustified, and indefinite detention.

66. Accordingly, Petitioner's continued incarceration without an individualized custody determination violates the Due Process Clause of the Fifth Amendment. Habeas relief is warranted to remedy these constitutional violations by ordering her immediate release or, in the alternative, requiring a prompt and constitutionally adequate bond hearing before a neutral adjudicator with authority to grant release.

COUNT III: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT – ARBITRARY AND CAPRICIOUS AGENCY ACTION

67. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

68. The Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2), requires courts to "hold unlawful and set aside" agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Under this standard, an agency must articulate a rational connection between the facts found and the choices made, and it must provide an adequate explanation for its actions consistent with statutory authority. See *Judulang v. Holder*, 565 U.S. 42, 55 (2011).

69. The Department of Homeland Security has acted arbitrarily and capriciously in continuing to detain Petitioner without any individualized justification. Petitioner has no criminal convictions, has no pending criminal charges, has not engaged in violence or dangerous behavior, and has consistently cooperated with immigration authorities since her detention by ICE.

70. Despite these facts, DHS has maintained Petitioner's detention for an extended and potentially indefinite period without providing any reasoned explanation or evidence that continued confinement serves a legitimate statutory purpose. DHS has failed to articulate why release under supervision, bond, or other alternatives would be insufficient.

71. DHS's reliance on *Matter of Yajure Hurtado* to justify continued detention is arbitrary and contrary to law. *Yajure Hurtado* addresses the jurisdiction of Immigration Judges to conduct bond hearings. It does not compel DHS to detain noncitizens indefinitely, nor does it eliminate DHS's longstanding discretionary authority to release noncitizens on parole, recognizance, supervision, or bond.

72. By treating *Yajure Hurtado* as an absolute bar to any form of custody review or discretionary release, DHS has effectively adopted a blanket detention policy that substitutes categorical rules for the individualized determinations required under the Immigration and Nationality Act.

73. DHS has not conducted any meaningful custody assessment of Petitioner, nor has it provided a rational explanation for refusing to exercise discretion in her case. Petitioner's lack of criminal convictions, her cooperation with authorities, her pending applications for humanitarian relief, or her eligibility for alternatives to detention constitutes arbitrary and capricious decision-making.

74. DHS's actions are inconsistent with the statutory purpose of civil immigration detention, which is limited to ensuring appearance at future proceedings and protecting public safety. Petitioner's continued confinement does not advance either purpose.

75. DHS has therefore acted in a manner that is arbitrary, capricious, an abuse of discretion, and not in accordance with law. Its continued detention of Petitioner must be set aside under 5 U.S.C. § 706(2)(A).

76. Habeas relief is warranted to remedy this unlawful agency conduct. Petitioner respectfully requests that this Court order her immediate release or, in the alternative, direct DHS to provide a constitutionally adequate and reasoned custody determination consistent with the requirements of the Administrative Procedure Act and the Immigration and Nationality Act.

COUNT IV: VIOLATION OF THE EQUAL PROTECTION GUARANTEE OF THE FIFTH AMENDMENT

77. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

78. The Due Process Clause of the Fifth Amendment contains an implicit guarantee of equal protection that prohibits the federal government from treating similarly situated individuals differently without a rational and legitimate governmental purpose. *Reno v. Flores*, 507 U.S. 292, 302 (1993); *Plyler v. Doe*, 457 U.S. 202, 210 (1982); *Bolling v. Sharpe,* 347 U.S. 497, 499 (1954).

79. Petitioner is placed in removal proceedings under section 240 of the Immigration and Nationality Act, a statutory framework under which noncitizens ordinarily receive an individualized custody determination before an Immigration Judge pursuant to section 236(a).

80. Petitioner is a citizen and national of Nicaragua who entered the United States on or about November 17, 2020, has no criminal convictions, no record of violence or dangerous behavior, and has no pending criminal charges. She has cooperated fully with immigration authorities since entering ICE custody.

81. Despite being similarly situated to other § 240 respondents, Petitioner has been categorically denied access to any bond hearing based solely on DHS's assertion—drawn

from disputed and unreviewed factual allegations regarding the manner and timing of her entry—that she was apprehended "shortly after entry," resulting in her classification under section 235(b).

82. On January 27, 2026, the Pearsall Immigration Court denied Petitioner's request for a custody redetermination solely on jurisdictional grounds. The Immigration Judge concluded that the Court lacked authority to consider bond, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and incorrectly applying Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019) as a pretext to prevent a habeas challenge. Furthermore, the Immigration Judge erred in concluding that Respondent, an individual who has resided in the United States for years, is still subject to expedited removal. According to the Immigration Judge, Petitioner was deemed ineligible for custody review on the basis of a categorical jurisdictional determination rather than an individualized assessment.

83. The government's treatment of Petitioner creates an unjustifiable disparity between her and similarly situated detainees who receive individualized bond hearings. The Fifth Amendment prohibits the government from treating similarly situated persons differently without a rational basis. *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954).

84. DHS's categorical reliance on section 235(b) to foreclose Petitioner's access to custody review—despite her placement in § 240 proceedings and the absence of any individualized custody determination—lacks a rational connection to any legitimate governmental purpose. Disparate treatment based solely on disputed and unreviewed facts regarding the manner of entry is arbitrary and not rationally related to the goals of ensuring appearance or protecting public safety. See *Zadvydas*, 533 U.S. at 690 (civil detention must relate to its permissible purposes).

85. Moreover, federal courts have recognized that immigration detention classifications must comport with fundamental fairness and may not be applied in an arbitrary or discriminatory manner. See, e.g., *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (government must justify detention with individualized evidence); *Rodriguez v. Robbins*, 804 F.3d 1060, 1074–76 (9th Cir. 2015) (due process prohibits prolonged detention without meaningful review).

86. DHS has provided no individualized or rational explanation for why Petitioner, unlike others in the same statutory posture, is denied access to an individualized custody determination. This unequal treatment violates the equal protection component of the Fifth Amendment.

87. Petitioner's continued incarceration under a discriminatory and arbitrary detention classification violates constitutional guarantees of equal protection and further underscores the unreasonableness and unlawfulness of her confinement.

88. Habeas relief is therefore warranted to remedy this unconstitutional disparate treatment by ordering Petitioner's immediate release or, in the alternative, directing DHS to provide her with the same procedural protection and individualized custody review available to similarly situated noncitizens.

COUNT V: VIOLATION OF THE SUSPENSION CLAUSE OF THE UNITED STATES CONSTITUTION

89. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

90. The Suspension Clause of the United States Constitution provides that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. The Clause

guarantees the availability of judicial review to challenge the lawfulness of executive detention. *Boumediene v. Bush*, 553 U.S. 723, 745–46 (2008); *INS v. St. Cyr*, 533 U.S. 289, 300–05 (2001).

91. Habeas corpus remains available to all persons in the United States who are detained by executive authority, including noncitizens in civil immigration custody. The Supreme Court has made clear that Congress may not eliminate all avenues of meaningful judicial review of the legality of detention. *St. Cyr*, 533 U.S. at 305–06.

92. Petitioner is detained solely under civil immigration authority and is currently confined at the Karnes County Immigration Processing Center in Karnes City, Texas. She has no criminal convictions, and has no pending criminal charges, no history of violence, and her removal proceedings remain pending.

93. The Immigration Judge categorically denied jurisdiction to consider bond or conduct any individualized custody determination, relying exclusively on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) and incorrectly applying Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019) as a pretext to prevent a habeas challenge. Furthermore, the Immigration Judge erred in concluding that Respondent, an individual who has resided in the United States for years, is still subject to expedited removal. This classification—based on disputed and unreviewed allegations regarding the manner and timing of Petitioner's entry—foreclosed access to the custody redetermination process available to other § 240 respondents.

94. Because the Immigration Judge concluded that he lacked jurisdiction, Petitioner has no administrative pathway to challenge the legality, length, or necessity of her detention. ICE has likewise provided no discretionary parole review or case-specific custody assessment.

95. As a result, no alternative remedy exists outside of habeas corpus through which Petitioner may obtain judicial review of the legality of her confinement. Neither the Immigration

Courts nor the Board of Immigration Appeals possesses jurisdiction to review custody challenges arising from DHS's classification decisions.

96. The Suspension Clause forbids the government from implementing a detention scheme that eliminates all meaningful opportunity for detainees to test the legality of their confinement. *Boumediene*, 553 U.S. at 779 ("The writ must be effective."). When no adequate and effective substitute exists, habeas review is constitutionally required. *St. Cyr*, 533 U.S. at 305.

97. Petitioner's detention—prolonged, indefinite, and wholly insulated from individualized review—implicates the core protections of the Suspension Clause. Without habeas corpus, Petitioner would have no judicial or administrative mechanism to contest the legality of her civil confinement.

98. The government's application of *Matter of Yajure Hurtado* to categorically bar all custody review, therefore, violates the Suspension Clause by depriving Petitioner of an effective and constitutionally required means to challenge unlawful detention.

99. Accordingly, habeas corpus relief is required. Petitioner respectfully requests that this Court order her immediate release or, in the alternative, direct Respondents to provide her with a prompt, meaningful, and individualized custody hearing before a neutral adjudicator with authority to grant release.

COUNT VI: VIOLATION OF THE *ACCARDI* DOCTRINE WITH RESPECT TO 8 C.F.R. § 287.8(C)(2)(I) AND (II)

100. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

101. The United States has also failed to follow immigration-specific arrest and processing regulations. Regulations governing immigration enforcement require that

warrantless arrests comply with the standards set forth in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present illegally. 8 C.F.R. § 287.8(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is "likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii).

102. At the time of her transfer into ICE custody on December 10, 2025, and at all times thereafter, Petitioner had complied with all immigration requirements, including appearing for her immigration proceedings and remaining available to immigration authorities. Petitioner was not arrested by local law enforcement and was not transferred to ICE custody pursuant to an immigration detainer. Rather, Petitioner appeared for a scheduled ICE appointment and was taken into custody by ICE without a warrant. Petitioner was not evading law enforcement, was not subject to any criminal investigation, posed no danger to any person or to the community, and presented no risk of flight. There was no factual basis to conclude that Petitioner was likely to escape before a warrant could be obtained. Therefore, Petitioner's warrantless immigration arrest and continued detention contravene the governing immigration arrest regulations and violate the Accardi doctrine, which requires agencies to follow their own binding regulations.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days, absent good cause for a short extension not exceeding ten days, and set the matter for a prompt hearing;

3. Enjoin Respondents from transferring Petitioner during the pendency of the instant action;
4. Declare that Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1226(a); the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
5. Grant the *writ of habeas corpus* and order Petitioner's immediate release from ICE custody; In the alternative, order a constitutionally adequate bond hearing at which DHS bears the burden of proving that Petitioner is a danger to the community or risk of flight, or reasonable conditions of supervision.
6. Award Petitioner her costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
7. Grant any other further relief this Court deems just and proper.

Dated: January 31, 2026

Respectfully Submitted,

/S/ Halimatou Bah
Halimatou Bah, Esq. Bar N. 24130178
Angeles Law LLC
2112 Broadway St NE STE 225 #53
Minneapolis, MN 55413
T: (321) 795-0568
halimatou@abogadoangeles.com
Attorney for Petitioner

EXHIBIT

EXHIBIT A	**NOTICE TO APPEAR**	**02 – 04**
EXHIBIT B	**IJ BOND ORDER**	**06 – 07**
EXHIBIT C	**I-213**	**09 – 10**

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

I represent Petitioner, KATHERINE DEL SOCORRO MEZA-LOPEZ, 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: January 31, 2026

/S/ Halimatou Bah
Halimatou Bah

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2026, I filed the foregoing petition for *Writ of Habeas Corpus* electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

Dated: January 31, 2026

/S/ Halimatou Bah
Halimatou Bah