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

Lourdes Martinez-Suarez, **Rosalia Escalante-Martinez,** **Petitioners,** **v.** **Kristi Noem, Secretary, U.S. Department of Homeland Security, Pamela Bondi, U.S. Attorney General, Todd M. Lyons, Acting Director of Immigration and Customs Enforcement; Miguel Vergara, Field Office Director at U.S. Immigration & Customs Enforcement; Jose Rodriguez Jr., Warden of the DilleyImmigration Processing Center,** **Respondents**	**Case No. 5 :26-CV-00641**

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

BACKGROUND

1. This is a petition for a writ of habeas corpus filed on behalf of Lourdes Martinez-Suarez and Rosalia Escalante-Martinez, mother and daughter, seeking relief to remedy their unlawful detention. Respondents are detaining Petitioners pending removal proceedings. To date, Respondents have denied Petitioners a bond hearing citing to *Yajure Hurtado* claiming the Immigration Judges do not have jurisdiction to consider their release on bond, and thus have detained since January 5, 2026.
2. Mrs. Lourdes Martinez- Suarez and her daughter Rosalia Escalante-Martinez are not a flight risk or a danger to the community. Prior to their detention, they were reporting with the U.S. Immigration and Customs Enforcement (ICE) and had committed no

crimes, nor have they been charged with any crimes. Their prolonged detention is not justified under the Constitution or the Immigration and Nationality Act (INA).

INTRODUCTION

3. For decades Immigration Judges (IJ), immigration lawyers for noncitizens, and attorneys for the Department of Homeland Security (DHS) construed 8 U.S.C §1226 (a) to allow for bond eligibility for noncitizens who entered the country without inspection. This was well settled law for over thirty years. In fact, almost a year ago, when Congress passed the Laken Riley Act (LRA), it revealed and confirmed that its understanding that noncitizens who entered the country without inspection are eligible for a bond. The LRA's amendments to 8 U.S.C. §1226(c) add provisions providing that noncitizens who entered the country illegally and commit certain enumerated offenses are not eligible for a bond. Congress would not have passes LRA if it understood that noncitizens who entered the country unlawfully were already subject to mandatory detention under 8 U.S.C. §1225.

4. Notwithstanding the plain language of §§1226 and 1225, on September 5, 2025, the Board of Immigration Appeals (BIA) decided Matter of *Yajure Hurtado,* in which it determined that any person who entered the United States without admission is mandatorily detained under 8 U.S.C. §1225 (b)(2)(A). 29 I&N De. At 216. The majority of district courts across the nation have rejected Respondents' erroneous interpretation. See e.g. Chogllo Chafla v. Scott, No. 2-25-cv-00437-SND, 2025 WL 2688541, at *5(D. Me. Sep. 21, 2025)("[N]early all district courts that have considered this issue have, after conducting persuasive, well-reasoned analysis of the statutory language an legislative history, rejected the Government's broad interpretation of

section 1225(b)(2).")(collecting cases); Belsai D.S. v. Bondi, No.25-cv-03682 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct 1, 2025) (joining the "chorus" of courts concluding that §1226 applies) (collecting cases); Buenrostro-Mendez v. Bondi, No. CVH-25-3726, 2025 WL 2886346 (S.D.. Tex. Oct. 7, 2025)("As almost every district court to consider this issues has concluded, "the statutory text, the statute's history, Congressional intent, and §1226(a)'s application for the past thirty years support finding that §1226 applies to these circumstances."); J.E.H.G. v. Chesnut et al, No 1:25-CV-01673-JLT SKO, 2025 WL 3523108 (E.D. Cal Dec. 9, 2025) ("Thus, because Petitioner had been present in the United States for approximately three years and were released on their own recognizance by ICE before Respondents adopted the new interpretation of the governing statutes, the Court concludes that the government's recent interpretation of relationship between §1225 and §1226 ....does not apply here, such that detention is not "mandatory" in this case.").

5. The Petitioners are a 57-year-old mother and her 18-year-old daughter. They Petitioner entered the United States on or around May 27, 2022, without inspection. They were apprehended by U.S. Immigration officials pursuant to a warrant of arrest under 8 U.S.C. §1226 after their entry and ordered to appear before an Immigration Judge (IJ) on " July 18, 2023" at 9:00am" See Exh. A. (Notice to Appear). Thereafter, the U.S.. Department of Homeland Security (DHS) released the Petitioner from custody "[p]ursuant to the authority contained in section [1226]" on their "own recognizance." See Exh. B. In doing so, DHS determined that the Petitioners posed no danger or flight risk and that pursuing their removal was not a priority. Saravia v. Sessions, 280 F. Supp. 3d 1168, 1178 (N.D. Cal 2017), aff'd sub nom. Saravia for A.H. v. Sessions,

905 F. 3d 1137 (9th Cir. 2018) ("Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."). Petitioner have been residing in the United States, specifically San Antonio, since their release from immigration custody and have fully complied with their orders of release by appearing for various ICE check-ins.

6. On or around January 5, 2026, Petitioners were re-detained by U.S. Immigration and Customs Enforcement (ICE) while attending a routine ICE check-in appointment to the crosspoint location. This sudden deprivation of liberty was done without a material change in circumstances that would render Petitioners a danger or a flight risk is the reason that Petitioners were denied their liberties. Petitioners are now held without bond, in flagrant violation of statutory and constitutional due process protections.

7. The erroneous BIA decision in *Yajure Hurtado* dictates that IJ's lack jurisdiction to consider bond requests for noncitizens who are present in the United States without admission or parole. As the Petitioner entered the United States without inspection, they falls within the category of noncitizens that *Yajure Hurtado* has rendered ineligible for bond.

8. The Petitioners accordingly file this petition seeking a Writ of Habeas Corpus ordering their release from custody immediately. See e.g. Tinoco Pineda v. Noem, No. SA-25-CA-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025) (ordering Petitioner's immediately released); Y.M.M. v. Wamsley, No. 2:25-CV-02075, 2025WL 3101782 (W.D. Wash, Nov. 6, 2025)(same); Sanchez v. LaRose, No. 25-CV-2396-JES-MMP, 2025 WL 2770629 (S.D. Cal Sept. 26, 2025)(same). In the alternative, Petitioners request that the Court order Respondents to provide them a bond hearing under 8

U.S.C. §1226 (a) within three days of this Court's order, at which the U.S. Department of Homeland Security bears the burden to justify their redetention by demonstrating by clear and convincing evidence, materially changed circumstances rendering Petitioners a danger to the community or a flight risk. See e.g. Salazar v. Dedos, No. 1:25-CV-00835-DHU-JMR; 2025 WL 3038262 at *4 (W.D. Tex. Oct. 30, 2025)(same)(holding that "when ordering a bond hearing as a habeas remedy" the burden shifts to the government); Espinoza v. Kaiser, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185 (E.D. Cal . Sept. 5, 2025)("Since it is the government that initiated redetention, it follows that the government should be required to bear the burden of providing a justification for the redetention.").

PARTIES

9. Petitioner Lourdes Martinez-Suarez is a citizen of Cuba who is currently detained in immigration detention in the South Texas Family Residential Center located at 300 El Rancho Way, Dilley, Texas 78017. She has been assigned A# [redacted] by the Department of Homeland Security (DHS).

10. Petitioner Rosalia Escalante-Martinez is a citizen of Cuba who is currently detained in immigration detention in the South Texas Family Residential Center located at 300 El Rancho Way, Dilley, Texas 78017. She has been assigned A# [redacted] by the Department of Homeland Security (DHS).

11. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and is charged with implementing the immigration laws of the United States. Secretary Noem is being sued in her official capacity.

12. Respondent Pamela Bondi is the Attorney General for the United States and is charged with overseeing the Executive Office of Immigration Review (EOIR). General Bondi is being sued in her official capacity.

13. Respondent Todd M. Lyons is the Acting Director of the Immigration and Customs Enforcement (ICE), a sub-agency of Homeland Security. It is under ICE's authority that the Petitioner is being held without bond. Acting Director Lyons is being sued in his official capacity.

14. Respondent Miguel Vergara is the Field Office Director for ICE enforcement and Removal Operations (ERO). It is under Respondent Vergara's order that the Petitioner is in immigration custody. Respondent Vergara is being sued in his official capacity.

15. Respondent Jose Rodriguez, Jr. is the warden and/or immediate custodian at the South Texas Family Residential Center of the immigration detention center in Dilley, Texas. Respondent Rodriguez is being sued in his official capacity.

JURISDICTION

16. This Court has subject mater jurisdiction over Petitioners' petition for write of habeas corpus pursuant to 28 U.S.C §2241, art. I. §9, cl.2 of the Unites States Constitution ("Suspension Clause"). The Court also has jurisdiction pursuant to 28 U.S.C §1331 (Federal Question Jurisdiction) inasmuch as the case is a civil action arising under the laws of the United States as the Petitioners are presently in custody under color of authority of the Unites States and such custody is in violation of the U.S. Constitution, laws, or treaties of the Unites States. This Court may grant relief pursuant to 28 U.S.C §2241, and the All Writs Act, 28 U.S.C §1651.

17. Although only the Court of Appeals has jurisdiction to review removal orders directly through a petition for review, see 8 U.S.C §§ 1252(a)(1), (a)(5), (b), District Courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. See e.g. Jennings v. Rodriguez, 583 U.S. 281, 292-96 (2018); Demore v. Hyung Joon Kim, 538 U.S. 510, 516-17 (2003); Zadvydas v. Davis, 533 U.S. 678, 687-88(2001).

VENUE

18. Venue is proper in this district because the Petitioners are detained within this district, and a substantial amount of the events giving rise to this claim occurred within the district. 28 U.S.C §139(e)(1).

LEGAL FRAMEWORK REGARDING BOND ELIGIBILITY AND MANDATORY IMMIGRATION DETENTION

19. Congress deliberately provided for immigration detention in two different statutes, 8 U.S.C. §1226 and 8 U.S.C §1225, to address two very different groups of noncitizens in different circumstances

20. This case involves the interplay between 8 U.S.C. §1226 (generally custody for individuals in traditional removal proceedings before an IJ and the mandatory custody provisions of 8 U.S.C. §1225(b)(2) that apply to those noncitizens' admission at the port of entry or the border. The Respondent's authority to detain noncitizens under §§1226 or 1225 depends on the individualized circumstances of the noncitizens and the procedural posture of the removal case.

21. Both §§1226 (a) and 1225 (b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 to provide detention for

different subsets of noncitizens, Pub. L. No. 104-208, Div. C. §§302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585.

22. Prior to IIRIRA, deportation proceedings were generally governed by 8 U.S.C §1225 (a)(1) (1994), which provided that "Pending a determination of deportability... any [noncitizen]...may, upon warrant of the Attorney General, be arrested and taken into custody." Like 1226(a), this provision authorized discretionary release on bond pending a determination of deportability. See §1252(a)(1) (1994). According to IIRIRA's legislative history, §1226 (a) was intended to "restate the [then] current provisions of section 242 (a)(1) regarding the authority of the Attorney General to arrest, detain, and release *on bond* an alien who is not lawfully in the United States." See Rodriguez v. Bostock, 779 F. Supp. 3d 1239, 1260 (W.D. Wash Sept 30, 2025)(quoting H.R. Rep. No. 104-469, at 229)(1996) (emphasis added).

23. In 1997, following the enactment of IIRIRA, the Executive Office for Immigration Review (EOIR) drafted new regulation explaining that, in general, people who entered the country without inspection were not considered detained under §1225 and that they were instead detained under §1226(a) "and eligible for bond and bond redetermination." See Inspection and Expediated Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10323(Mar. 6, 1997).

24. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearing under §1226(a). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before

an IJ or other hearing officer. See 8 U.S.C. §12152(a)(1994); see also H. Rept. No. 104-469, Part 1 at 229(1996) (noting that §1226(a) simply 'restates' the detention authority previously 226 (a)).

i. The Petitioners are in custody under 8 U.S.C §1226 and the IJ can order their release on bond

25. The Petitioners are in custody under 8 U.S.C §1226 and the IJ can order their release on bond. Section 1226 (a) "authorizes the Government to detain certain aliens already in the country pending outcomes of removal proceedings." Jennings, 853 U.S. at 289 (emphasize added). In October 2021, Petitioners were arrested on a warrant issued pursuant to 8 U.S.C. §1226(a), released on an Order of Recognizance, pursuant to that same authority, and served with an NTA commencing removal proceedings under §1229a. See Exh. A. Over three years later, while residing in the United States, ICE redetained the Petitioners pursuant to §1226(a) pending the outcome of removal proceedings. The logical conclusion, therefore, is that their present detention continues to be governed under §1226(a).

26. Section 1226(a) establishes the discretionary framework for noncitizens arrested or detained "[on] warrant issued by the Attorney General." For such individuals, the Attorney General (1) "may continue to detain the arrested alien, " (2) "may release the alien on...(A) bond of at least $1,500" or (B) "may release the alien on ...conditional parole." 8 U.S.C. §§1226(a)(1)-(2). Release on an order of recognizance is a form of conditional parole under §1226(a)(2)(B). See Sampiao v. Hyde, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *2(D. Mass. Sept. 9, 2025).

27. DHS makes an initial custody determination on whether to allow the noncitizen to be released under §1226(a). 8 C.F.R. §§1236(c)(8), (d)(1). However, such determinations "may be reviewed by an IJ pursuant to 8 C.F.R §1003.19(a).

28. Under 8 U.S.C. §1226, an IJ may grant bond if the noncitizen demonstrates that he or she is not a danger to the community or pose a significant risk of flight. Matter of Guerra, 24 I&N Dec. 37, 40(BIA 2006).

29. Once an individual has been released from ICE custody, DHS is only authorized to revoke a bond upon a finding of materially changed circumstances meriting the noncitizen's return to custody. See e.g. Saravia v. Sessions, 280 F. Supp. 3d 1168 (N.D. Cal. 2017) (Once a noncitizen has been released, the law prohibits federal agents from rearresting him merely because he is subject to removal proceedings. Rather, the federal agents must be able to present evidence of materially changes circumstances—namely, evidence that the noncitizen is in fact dangerous or has become a flight risk or is now subject to a final order of removal." See also Matter of Sugay, 17 I&N Dec. 637, 640 (BIA 1981) (finding a change in circumstances, in part, when it was determined that the noncitizen was "wanted for murder in the Philippines'....").

30. Section 1226 (c) requires mandatory detention for specifically enumerated categories of noncitizens. Section 1226(c), until recently required the detention of noncitizens who are inadmissible or deportable because they have committed or been sentenced for certain criminal offenses, or because they are affiliated with terrorist groups or activities. See §§1226(c)(1)(A)- (D).

31. In January 2025, Congress enacted the Laken Riley Act (LRA) which expanded this list y adding §§1226(c)(1)(E), which requires detention of individuals who are (1) are

inadmissible under §§ 1182(a)(6)(A), (C), or (7) and (2) who have been charged with, arrested for or convicted of certain crimes including burglary, theft, shoplifting, or crimes resulting in death or serious bodily injury. Laken Riley Act Pub. l No. 119-1, 139 Stat. 3 (2025).

32. The enactment of the LRA confirms that Congress did not intend for all noncitizens who entered the country unlawfully and are found within the interior of the United States to be subject to mandatory detention under 8 U.S. C. §1225(b)(2)(A). Indeed, the LRA explicitly provides for mandatory detention for noncitizens who both entered the country unlawfully and committed one of the above enumerated offenses within the United States. The LRA would not have been necessary if all noncitizens who entered the country illegally are subjected to mandatory detention under §1225(b)(2)(A). *Yajure Hurtado* effectively provides that LRA was an unnecessary, needless bill.

33. Section 1226(a) leave no doubt that it applies to people who confront removal for being inadmissible to the Unites States, including those who are present without admission or parole.

ii. The Petitioners are not subject to mandatory detention under §1225(b)(2)(A).

34. This section is plainly not applicable in this case as it only applies to noncitizens who were seeking admission. The statute states, ***"In the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, then alien shall be detained for a proceeding under section 1229a of this title."***

For.§1225(b)(2)(A) to apply, "several conditions must be met... in particular, an 'examining immigration officer' must determine that the individual is: (1) an applicant for admission'; ***(2) 'seeking admission''*** and (3)'not clearly and beyond a doubt entitled to be admitted. " Martienz v. Hayde, No. 1:25-cv-11613-BEM—F. Supp. 3d---, 2025, WL 2084238, at *6-7 (DD. Mass. Juy 24, 2025). "One who is **'seeking admission'** is ***presently attempting*** to gain admission int the United States. " Belsai D.S, 2025 WL 2802947, at *6 (emphasis added). "Admission' refers to "lawful entry.... Into the United States after inspection an authorization by an immigration officer." Id §1101(a)(13)(A). When Respondents detained Petitioners over three years after they entered the United States, the Petitioners were **not seeking entry** as they have lived in San Antonio, Texas for over three years, and they was not seeking "lawful entry...after inspection and authorization by an immigration officer." See Martinez v. Mukasey, 519 F. 3d 532, 544 (5th Cir. 2008), as amended (June 5, 2008) ("Under the statutory definition, 'admission' is the lawful *entry* of an alien after inspection, something quite different, obviously, from post-entry adjustment of status." (Emphasis in original).

35. As the Supreme Court has explained, the detention authority under 1225(b)(2)(A) applies "at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible." Jennings, 583 U.S. at 287; see also Lopez-Campos v. Raycraft, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 , at *18(E.D Mich. Aug. 29, 2025) ("1225(b)(2)(A) applies when people are being inspected, which usually occurs at the border, when they are seeking lawful entry into this country."). A person detained under §1125 (b)(2) may be released only

if paroled "for urgent humanitarian reasons or significant public benefit." 8. U.S.C. §1182(d)(5)(A).

36. As stated above, the Petitioners were previously released under §1226 (a), which allows a noncitizen to be released on his own recognizance, i.e. on "conditional parole" , pending removal proceedings. Moreover, they have be in the United States for over three years subsequent to an unlawful entry and were most recently arrested in the interior of the United States during a routine ICE check point at the San Antonio ICE office located on crosspoint. As such, they are not in custody under §1225(b)(2)(A).

B. The Respondent's misconstruction of §1225(b)(2)(A) as encompassing all noncitizens who entered the country illegally is contrary to decades of established practice and has led to the unlawful detention of Petitioners.

37. The Respondent's misconstruction of the statutes is part of their scheme to greatly expand immigration detention in general by using the mandatory provisions of 8 U.S.C. §1225.

38. On July 8, 2025, ICE "in coordination with" Department of Justice (DOJ), announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

39. 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 subjected to mandatory detention provision under §1225(b)(2)(A). The policy applies regardless of when a person is apprehended, greatly affecting those who have resided in the United States for months, years, and even decades.

40. On September 5, 2025, the BIA—reversing decades of practice—adopted this same position in Yajure Hurtado, 29 I&N Dec. at 218. There, the BIA held that all noncitizens who entered the Unites States without admission or parole are subject to detention under §1225(b)(2)(A) and are ineligible for IJ bond hearings. Id.

41. As demonstrated in the string cite above, the Respondents efforts to expand 8 U.S.C. §1225 to provide for more mandatory detention has been rejected by courts across the nation. Accordingly, the mandatory detention provision of §1225(b)(2)(A) does not apply to people like Petitioners, who had already entered and were residing in the United States, for over a three-year period, at the time were they were apprehended by ICE.

FACTS

42. The Petitioners, citizen of Cuba, entered the United States without inspection on or about May 27, 2022. They were apprehended after their entry and served with an NTA charging them as inadmissible for being present in the United States without having been admitted or paroled. See Exh. A. Thereafter, DHS ordered Petitioners' released on their own recognizance thereby determining that they posed neither a danger to the community nor a flight risk. See Saravia, 280 F. Sup. 3d at 1176. The Petitioners have no criminal history, and have fully complied with all conditions of their release.

43. Following their release from custody, the Petitioner resided in San Antonio, Texas for over three years. While in proceedings, they timely filed their application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). See Exh. C (I589 with the Court). DHS granted the Petitioner employment

authorization based on their pending applications and authorized work until March 6, 2029. See Exh. D (copy of work authorization).

44. On or about January 5, 2026, while attending a routine ICE check point in at the crosspoint location for ICE in San Antonio, Texas, the Petitioners were re-detained by DHS. Petitioner's re-detention was not based on any materially changed circumstances that would now render them a flight risk or danger to the community. Indeed, "[t]he law requires a change in relevant facts, not just a change in 'the government's] attitude." Singh v. Andrews. No 1:25-CV-00801-KES-SKO(HC), 2025 WL 1918679, at *7(E.D. Cal July 11, 2025)(quoting Valdez v. Joyce, 25 Civ. 4627 (GBD), 2025 WL 1707737, at *3n.6(S.D.N.Y. June 18, 2025)).

45. The Respondents are detaining Petitioner with no bond at the South Texas Family Residential Center located in Dilley, Texas. Petitioners were denied a bond because, "...Matter of Yajure-Hurtado applies, 29 I&N Dec. 216 (BIA 2025). .. Order: The respondent's request for redetermination of custody status is hereby DENIED for lack of jurisdiction." See Exh E. (IJ Bond Denial). Yajure-Hurtado renders the Petitioner ineligible for bond noting that the IJ lacks jurisdiction.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

46. The Petitioners have exhausted their administrative remedies to the extent required by law. The Petitioner requested a bond before the IJ. On January 29, 2026, the IJ denied the bond request indicating that the IJ lacked jurisdiction to set bond. See Exhibit E. It would be futile to require the Petitioners to file an appeal given that the BIA has already announced its decision on the issue of bond jurisdiction in matter the matter of *Yajure Hurtado.*

CLAIMS FOR RELIEF

Count I: Fifth Amendment Due Process Violations

47. The Respondents may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V. The Petitioners have a weighty liberty interest as their freedom "from government ...detention...lies at the heart of the liberty that [the Fifth Amendment] protects." Zavadas, 533 U.S. at 690.

48. Individuals who have been released from custody gain a protected liberty interest in remaining free from custody, and ICE must show materially changed circumstances to justify redetention. See e.g. Matter of Sugay, 17 I&N at 640, Ortega v. Bonnar, 415 F. Supp. 3d 963, 969 (N.D. Cal 2019), Lopez-Arevelo v. Ripa, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11(W.D. Tex. Sept. 22, 2025)("[Once] released from immigration custody, noncitizens acquire 'a protectable liberty interest in remaining out of custody on bond,"); Singh, 2025 WL 1918679, at *6 ("Furthermore, the Supreme Court has held that, even when a statute authorizes revocation of an individual's freedom, the individual may retain a protected liberty interest under the Due Process Clause.").

49. To determine whether a civil detention violates a detainee's right to due process, courts apply the three-part test set forth in Mathews v. Eldridge, 424 U.S. 319 (1976), See Martinez v. Noem, No. 5:25-CV-1007-JKP.2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025), The Mathews factors are (1)"the private interest that will be affected by the official action" (2) "the risk of an erroneous deprivation of such interest through the procedural safeguards" and (3) "the Government's interest, including the function

involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail." Mathews, 424 U.S. at 335.

50. These factors all favor a determination that the Petitioner is being held without due process of law. The deprivation of their liberty interest based on *Yajure Hurtado* carries a high risk that the Petitioners' liberty is being erroneously deprived.

51. The Respondents re-detention of Petitioner over three years after their release on their own recognizance in May 2022, without prior notice, any showing of changed circumstances, or a meaningful opportunity to contest his re-detention violates the Fifth Amendment's Due Process Clause.

Count II. Statutory claim: The Petitioner is detained under §1226(a) and is not subject to mandatory detention under §1225(b)(2).

52. The Petitioners have a clear right to a custody hearing by an IJ under 8 U.S.C § 1226(a)(2). The Respondents are detaining the Petitioner in direct violation of this statute which authorizes the IJ to grant release from custody.

53. The statute cannot be clearer and requires that the Petitioners be provided with the opportunity to present their custody redetermination case before an IJ. While the BIA reached the opposite conclusion in *Yajure Hurtado*, this interpretation is erroneous and even if it were plausible, it is not entitled to Chevron deference pursuant to the Supreme Court's decision in Loper Bright Enter prizes v. Raimondo 603 U.S. 369, 369 (2024) (overruling Chevron, U.S.A. ,Inc. v. Nat, Res. Def. Council, Inc., 467 U.S. 837 (1984)).

54. Moreover, in Monteon-Camargp v Barr. The Fifth Circuit found that where the BIA announces a "new rule of general applicability" which "drastically change[s] the

landscape," retroactive application would "contravene basic presumption about our legislative system" and should in that case be disfavored unless the government can demonstrate that the advantages of retroactive application outweigh these grave disadvantages. 918 F.3d 423, 430-431 (2019). (Quoting Matter of Diaz-Lizarrga, 26 I&N De. 847, 849, 852, (BIA 2016). Applying *Yajure Hurtado and Q. Li* to individuals like Petitioners, who entered the United States without inspection years before the BIA's decision is impermissibly retroactive. The BIA's decision contradicts decades of statutory practice and administrative precedent, under which such individuals were detained under §1226(a) and entitled to a bond hearing. Retroactively applying *Yajure Hurtado* strips these long-established rights and imposes a new disability on past actions by rendering them ineligible for bond, contrary to settled expectations. See Landgraf v. Usi Film Prods, 511 U.S. 244, 265 (1994) ("As Justice Scalia has demonstrated.... '[e]lementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct; accordingly, settled expectations should not be lightly disrupted.").

Count III. Accardi Violation

55. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Services issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of Aliens," the agencies explained 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." 62 Fed. Reg. 10312, 10323 (emphasis added). The agencies thus

made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJ under 8 U.S.C. §1226 and its implementing regulations.

56. Nonetheless, pursuant to *Yajure Hurtado and Q. Li*, EOIR has a policy and practice of applying §1225(b)(2) to individuals like Petitioners.

57. The application of §1225(b)(2)(A) to Petitioners unlawfully mandates their continued detention in violation of §1226(a) and it's regulations at 8 C.F.R. §§236.1, 1236.1 and 1003.19, which for decades have recognized that noncitizens present without admission are eligible for a bond hearing. See Jennings, 583 US. At 288-29 (describing §1226 detention as relating to people "inside the United States" and "present in the country"). Such protection is not a mere regulatory grace but a baseline Due Process requirement. See Hernandez-Lara v. Lyons, 10 F. 4th 19, 41 (1st Cir. 2021). The only exception for such noncitizens subject to § 1226(a) is where the noncitizen is subject to mandatory detention under 8 U.S.C. §1226 (c), for certain crimes and certain national security grounds of removability. See Demore v. Kim, 538 U.S. 510, 512 (2003).

58. Government agencies are required to follow their own regulations. United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 268 (1954); United States v. Heffner, 420 F. 2d 809, 811 (4th Cir. 1969) ("An agency of the government must scrupulously observe rules, regulations, or procedures which it has established. When it fails to do so, its actions cannot stand and courts will strike it down."). A violation of the Accardi doctrine may itself constitute a violation of the Fifth Amendment Due Process Clause,

particularly when liberty is at stake. See e.g. Sering Ceesay v. Kurzdorfer, 781 F. Supp. 3 d 137, 160(W.D. N.Y. 2025) (citing Rombot v. Souza, 296 F. Supp 3d 383, 388 (D. Mass. 2017)).

PRAYER FOR RELIEF

For the foregoing reasons, the Petitioners request that the Respondents be cited to appear and that, upon due consideration, the Court enter an order:

a. Ordering the Respondents, pursuant to 28 U.S.C. §2243, to demonstrate within seven days why Petitioner's Writ of Habeas Corpus should not be granted.
b. Granting a Writ of Habeas Corpus finding that the Petitioners' detention is unlawful and unconstitutional
c. Providing declaratory relief that the Petitioners' detention is unlawful;
d. Ordering Petitioners' immediate release from custody, or in the alternative, ordering Respondents to provide them a bond hearing under 8 U.S.C. §1226(a) within five days of this Court's order, at which DHS bears the burden of proof to justify Petitioners re-detention by demonstrating, by clear and convincing evidence, materially changed circumstances rendering Petitioner's a danger to the community or a flight risk;
e. Ordering that Respondents not transfer the Petitioners to any facility outside of the boundaries of the Western District of Texas while this Writ is pending.
f. Awarding Petitioner's reasonable attorney fees, expenses, and costs, and
g. Granting Petitioner such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

02/02/2026
Date

Leticia A. Gonzalez
Texas Bar No. 24036151
l.gonzalez@gonzalezlawyer.com
5000 San Pedro Ave.
San Antonio, Texas 78212
Phone: (210) 293-9393
Fax: (210) 298-5762

Attorney for Petitioners

VERIFICATION UNDER 28 U.S.C. §2242

Acting on behalf of the Petitioner's, I verify that the foregoing factual allegations are true and correct to the best of my knowledge and belief as required by 28 U.S.C. §2242.

/s/ Leticia Gonzalez
Leticia Gonzalez

CERIFICATE OF SERVICE

I certify that on today's date, February 2, 2026, I filed the above Verified Petition for Writ of Habeas Corpus by using the Courts CM/ECF system, which will automatically send a notice of electronic filing to Defendant's counsel.

/s/ Leticia Gonzalez
Leticia Gonzalez

Exhibit "A"

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted] FINS #: [redacted] File No: [redacted]

DOB: [redacted] Event No: [redacted]

In the Matter of:

Respondent: LOURDES MARTINEZ-SUAREZ currently residing at:

[redacted] [redacted] [redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of CUBA and a citizen of CUBA ;
3. You entered the United States at or near EAGLE PASS, TX , on or about May 27, 2022 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who entered into the United States at any time or place other than as designated by the Secretary of Homeland Security.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

800 DOLOROSA STREET SUITE 300, San Antonio TX US 78207

(Complete Address of Immigration Court, Including Room Number, if any)

on July 18, 2023 (Date) ; at 09:00 AM (Time) to show why you should not be removed from the United States based on the charge(s) set forth above.

MARCOS BARABIN Acting/Patrol Agent In Charge

(Signature and Title of Issuing Officer) (Sign in ink)

Date: May 29, 2022 Laredo, Texas

(City and State)

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted] FINS #: [redacted] File No: [redacted]

DOB: [redacted] Event No: [redacted]

In the Matter of:

Respondent: ROSALIA ESCALANTE-MARTINEZ currently residing at:

[redacted] [redacted] [redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of CUBA and a citizen of CUBA ;
3. You entered the United States at or near EAGLE PASS, TX , on or about May 27, 2022 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who entered into the United States at any time or place other than as designated by the Secretary of Homeland Security.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

800 DOLOROSA STREET SUITE 300 San Antonio, TX US 78207

(Complete Address of Immigration Court, including Room Number, if any)

on July 18, 2023 *(Date)* at 09:00 AM *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

MARCOS BARABIN Acting/Patrol Agent in Charge MB

(Signature and Title of Issuing Officer) (Sign in Ink)

Date: May 29, 2022 Laredo, Texas

(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the Internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____

(Signature of Respondent) (Sign in ink)

BORDER PATROL AGENT

(Signature and Title of Immigration Officer) (Sign in ink)

Date: 05/29/2022

Certificate of Service

This Notice To Appear was served on the respondent by me on May 29, 2022, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Refused to Sign

(Signature of Respondent if Personally Served) (Sign in ink)

NICOLAS HERNANDEZ-JR, BORDER PATROL AGENT

(Signature and Title of officer) (Sign in ink)

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE

File No.: [redacted]

Name: MARTINEZ-SUAREZ, LOURDES Date: May 30, 2022

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

- [x] You must report for any hearing or interview as directed by Immigration and Customs Enforcement or the Executive Office for Immigration Review.
- [x] You must surrender for removal from the United States if so ordered.
- [x] You must report in (writing) (person) to Duty officer at San Antonio Field Office on July 26, 2022, 8:00 AM as directed.

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

- [x] You must not change your place of residence without first securing written permission from the officer listed above.
- [x] You must not violate any local, State or Federal laws or ordinances.
- [x] You must assist Immigration and Customs Enforcement in obtaining any necessary travel documents.
- [x] Other: *Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.*

  If fitted with a U.S. Immigration and Customs Enforcement GPS tracking ankle bracelet, do not tamper with or remove the device. Under federal law, it is a crime to willfully damage or attempt to damage property of the United States. Damaging or attempting to damage the GPS tracking ankle bracelet or any of its associated equipment (including, but not limited to, the charging station, batteries, power cords, etc.) may result in your arrest, detention, and prosecution under 18 U.S.C. § 1361 and/or 18 U.S.C. § 641, each punishable by a fine, up to ten years imprisonment, or both.
- [x] See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by Immigration and Customs Enforcement.

A. Magee, Supervisory Detention and Deportation Officer
(Name and Title of ICE Official)

Alien's Acknowledgement of Conditions of Release under an Order of Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the SPANISH language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

W. M
(Signature of ICE Official Serving Order)

(Signature of Alien)

May 30, 2022
Date

I hereby cancel this order of release because:

- [ ] The alien failed to comply with the conditions of release.
- [ ] The alien was taken into custody for removal.

(Signature of ICE Official Cancelling Order)

Date

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE
(CONTINUATION PAGE)

Alien Name	Picture	Right Index Print
MARTINEZ-SUAREZ, LOURDES		
File Number [redacted] / Date: May 30, 2022		
Alien's Signature		
Alien's Telephone Number (if any) [redacted]		
Alien's Address [redacted]		

PERSONAL REPORT RECORD

Date	Officer	Comment/Changes
		3523 Crossroads Drive, San Antonio, TX 78217, 210-564-3300
07/06/22	F. Martinez	FEBRUARY 8, 2023 - 8:30 AM

Signature	Title
W.M	W.McGee, Deportation Officer

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE (ADDENDUM)

File No.: [redacted]

Name: MARTINEZ-SUAREZ, LOURDES

Date: May 30, 2022

- [x] That you do not associate with known gang members, criminal associates, or be associated with any such activity.
- [ ] That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a counselor.
- [ ] That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- [ ] That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.
- [x] That you do not commit any crimes while on this Order of Release on Recognizance.
- [x] That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.
- [ ] That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medication.
- [x] That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- [x] That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- [x] Any violation of the above conditions will result in revocation of your employment authorization document.
- [x] Any violation of these conditions may result in you being taken into ICE custody and you being criminally prosecuted.
- [ ] Other:

X _____
(Signature of Alien)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE

File No.: [redacted]

Name: ESCALANTE-MARTINEZ, ROSALIA

Date: May 30, 2022

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

- [x] You must report for any hearing or interview as directed by Immigration and Customs Enforcement or the Executive Office for Immigration Review.
- [x] You must surrender for removal from the United States if so ordered.
- [x] You must report in (writing) (person) to Duty officer at San Antonio Field Office on July 6, 2022, 8:00 AM as directed.

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

- [x] You must not change your place of residence without first securing written permission from the officer listed above.
- [x] You must not violate any local, State or Federal laws or ordinances.
- [x] You must assist Immigration and Customs Enforcement in obtaining any necessary travel documents.
- [x] Other: *Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.*

  If fitted with a U.S. Immigration and Customs Enforcement GPS tracking ankle bracelet, do not tamper with or remove the device. Under federal law, it is a crime to willfully damage or attempt to damage property of the United States. Damaging or attempting to damage the GPS tracking ankle bracelet or any of its associated equipment (including, but not limited to, the charging station, batteries, power cords, etc.) may result in your arrest, detention, and prosecution under 18 U.S.C. § 1361 and/or 18 U.S.C. § 641, each punishable by a fine, up to ten years imprisonment, or both.
- [x] See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by Immigration and Customs Enforcement.

A.Magee, Supervisory Detention and Deportation Officer
(Name and Title of ICE Official)

Alien's Acknowledgement of Conditions of Release under an Order of Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the SPANISH language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

W.M
(Signature of ICE Official Serving Order)

(Signature of Alien)

May 30, 2022
Date

I hereby cancel this order of release because:

- [ ] The alien failed to comply with the conditions of release.
- [ ] The alien was taken into custody for removal.

(Signature of ICE Official Cancelling Order)

Date

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE
(CONTINUATION PAGE)

Alien Name: ESCALANTE-MARTINEZ, ROSALIA		Right Index Print 
File Number: [redacted] Date: May 30, 2022		
Alien's Signature		
Alien's Telephone Number (if any): [redacted]		
Alien's Address: [redacted]		

PERSONAL REPORT RECORD

Date	Officer	Comment/Changes
		3523 Crosspoint Drive, San Antonio, TX 78217, 210-564-3300
07/06/22	F. Martinez	FEBRUARY 8, 2023 - 8:30 Am

Signature	Title
W.M	W.McGee, Deportation Officer

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE (ADDENDUM)

File No.: [redacted]

Name: ESCALANTE-MARTINEZ, ROSALIA

Date: May 30, 2022

- [x] That you do not associate with known gang members, criminal associates, or be associated with any such activity.
- [ ] That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a counselor.
- [ ] That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- [ ] That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.
- [x] That you do not commit any crimes while on this Order of Release on Recognizance.
- [x] That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.
- [ ] That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medication.
- [x] That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- [x] That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- [x] Any violation of the above conditions will result in revocation of your employment authorization document.
- [x] Any violation of these conditions may result in you being taken into ICE custody and you being criminally prosecuted.
- [ ] Other:

X _____
(Signature of Alien)

Exhibit "E"

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
PEARSALL IMMIGRATION COURT

Respondent Name:
MARTINEZ-SUAREZ, LOURDES

To:
Gonzalez, Leticia
5000 San Pedro Ave
San Antonio, TX 78212

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
01/29/2026

☐ Unable to forward - no address provided.

☑ Attached is a copy of the **decision of the Immigration Judge.** This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

☐ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

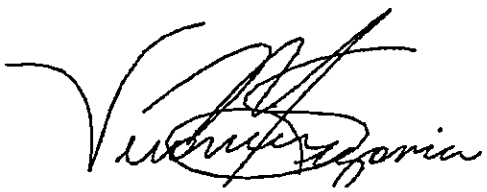
Immigration Court

☐ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available.

☐ Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review.** This is a final order. No appeal is available.

☐ Other:

Date: 01/29/2026



Immigration Judge: Veronica M. Segovia 01/29/2026

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [ ] Alien | [ ] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : MARTINEZ-SUAREZ, LOURDES | A-Number : [redacted]

Riders:

Date: 01/30/2026 By: Fowler, Dantonio, Court Staff

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
PEARSALL IMMIGRATION COURT

Respondent Name:
MARTINEZ-SUAREZ, LOURDES

To:
Gonzalez, Leticia
5000 San Pedro Ave
San Antonio, TX 78212

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
01/29/2026

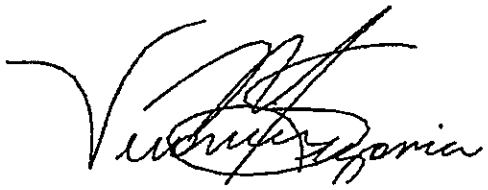
ORDER OF THE IMMIGRATION JUDGE

A request having been made for a change in the custody status of the respondent pursuant to 8 C.F.R.Part 1236, and the Court having considered the representations of the Department of Homeland Security (DHS) and the respondent, IT IS HEREBY ORDERED that the request for a change in the custody status of the respondent be DENIED for the following reason(s):

****** Matter of Yajure-Hurtado applies; 29 I&N Dec. 216 (BIA 2025)******

Order:

The respondent's request for redetermination of custody status is hereby DENIED for lack of jurisdiction.



Immigration Judge: Veronica M. Segovia 01/29/2026

Appeal: Department of Homeland Security: ☐ waived ☑ reserved
Respondent: ☐ waived ☑ reserved

Appeal Due: 03/02/2026

Certificate of Service

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To: [ ] Alien | [ ] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS
Respondent Name : MARTINEZ-SUAREZ, LOURDES | A-Number : [redacted]
Riders:
Date: 01/30/2026 By: Fowler, Dantonio, Court Staff

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
PEARSALL IMMIGRATION COURT

Respondent Name:
ESCALANTE-MARTINEZ, ROSALIA

To:
Gonzalez, Leticia
5000 San Pedro Ave
San Antonio, TX 78212

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
01/29/2026

☐ Unable to forward - no address provided.

☐ Attached is a copy of the **decision of the Immigration Judge.** This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

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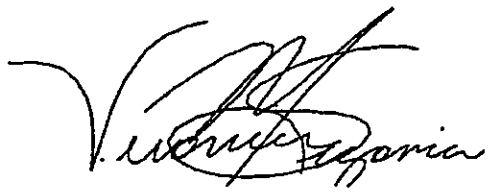
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☐ Other:

Date:



Immigration Judge: Veronica M. Segovia 01/29/2026

Certificate of Service

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Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable
To: [ ] Alien | [ ] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS
Respondent Name : ESCALANTE-MARTINEZ, ROSALIA | A-Number : [redacted]
Riders:
Date: 01/30/2026 By: Fowler, Dantonio, Court Staff

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
PEARSALL IMMIGRATION COURT

Respondent Name:
ESCALANTE-MARTINEZ, ROSALIA

To:
Gonzalez, Leticia
5000 San Pedro Ave
San Antonio, TX 78212

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
01/29/2026

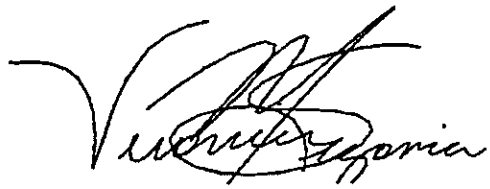
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Immigration Judge: Veronica M. Segovia 01/29/2026

Appeal: Department of Homeland Security: ☐ waived ☑ reserved
Respondent: ☐ waived ☑ reserved

Appeal Due: 03/02/2026

Certificate of Service

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Respondent Name : ESCALANTE-MARTINEZ, ROSALIA | A-Number : [redacted]
Riders:
Date: 01/30/2026 By: Fowler, Dantonio, Court Staff