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**UNITED STATES DISTRICT COURT**
**DISTRICT OF MINNESOTA**
**MINNEAPOLIS DIVISION**

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| **Josselyn Jacho Guanoquiza,**<br><br>Petitioner,<br><br>v.<br><br>**David Easterwood**, Director of St. Paul Field Office, U.S. Immigration and Customs Enforcement; **Kristi Noem,** Secretary of the U.S. Department of Homeland Security; **and Pamela Bondi,** Attorney General of the United States, in their official capacities,<br><br>Respondents. | Case No. 26-1009<br><br>**PETITION FOR WRIT OF HABEAS CORPUS** |

## INTRODUCTION

1. Petitioner Josselyn Jacho Guanoquiza is currently detained, upon information and belief, at the Fort Snelling Federal Building in Fort Snelling, Minnesota in the custody of Immigration and Customs Enforcement. She has been detained since February 3, 2026 and has been incorrectly deemed ineligible for bond and subject to mandatory detention under current Department of Homeland Security ("DHS") policy.

Accordingly, to vindicate Petitioner's statutory and constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

2. Absent an order from this Court, Petitioner will remain unlawfully detained for the duration of her removal proceedings.

3. Petitioner asks this Court to find that Petitioner was misclassified as a noncitizen seeking admission under 8 U.S.C. § 1225(b)(2), assume jurisdiction over this matter, and order bond for Petitioner so that she may be released from unlawful detention.

## JURISDICTION

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

6. This 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.

## VENUE

7. Venue is proper because Petitioner is detained, upon information and belief, at the Fort Snelling Federal Building in Fort Snelling, Minnesota, which is within the jurisdiction of this District.

## REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

9. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

**PARTIES**

10. Petitioner is a noncitizen. Currently, upon information and belief, Petitioner is detained at the Fort Snelling Federal building in Fort Snelling, Minnesota. She is in the custody, and under the direct control, of Respondents and their agents.

11. Respondent David Easterwood is sued in his official capacity as the Director of the St. Paul Field Office of U.S. Immigration and Customs Enforcement. Respondent Easterwood is a legal custodian of Petitioner and has authority to release him.

12. 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 Noem 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. Respondent Noem is a legal custodian of Petitioner.

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

## STATEMENT OF FACTS

14. Petitioner Josselyn Jacho Guanoquiza is a 21-year-old citizen of Ecuador. Ms. Jacho Guanoquiza and has resided peacefully in the U.S. since approximately July 2023 when she entered the U.S. without inspection. Ms. Jacho Guanoquiza has no criminal history and is employed at a local bakery. She has a four-year-old child and is currently six months pregnant with another child.

15. Petitioner was detained upon her entry to the U.S., but was released on her own recognizance under 8 U.S.C. § 1226. She received a Notice to Appear, indicating that she was "an alien present in the United States who has not been admitted or paroled."

16. U.S. Immigration and Customs Enforcement ("ICE") and/or other federal agents acting on ICE's behalf arrested Ms. Jacho Guanoquiza on February 3, 2026 while at an ICE check in. She was then taken into ICE custody.

17. Ms. Jacho Guanoquiza is currently being held at the Fort Snelling Federal Building in Fort Snelling, Minnesota in ICE custody pending full removal proceedings.

On information and belief, Ms. Jacho Guanoquiza is eligible for relief from removal, including asylum.

18. As a person arrested inside the United States and held in civil immigration detention for pending removal proceedings, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. However, under current DHS and EOIR policy, Petitioner has been misclassified as subject to mandatory detention under 8 U.S.C. § 1225(b)(2), making him ineligible for bond.

19. Petitioner thus seeks a declaratory judgment prompting the correct classification of her detention, making her bond-eligible, and thus releasing her from custody pending her full removal proceedings.

## LEGAL FRAMEWORK

20. The Fifth Amendment's Due Process Clause specifically forbids the government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. amend. V.

21. The Due Process Clause of the Fifth Amendment to the U.S. Constitution "applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001).

22. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas,* 533 U.S. at 678.

23. The Supreme Court, thus, "has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979). Further, "the interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld,* 542 U.S. 507, 529, 531.

24. In recent decades, the U.S. immigration system has implemented this balance of due process protections through a network of three mutually exclusive detention statues.

25. First, at the border, individuals "seeking admission" who are placed into removal proceedings are subject to detention without a bond hearing under 8 U.S.C. § 1225(b)(2). *See Jennings v. Rodriguez,* 583 U.S. 281, 287 (2018) (describing § 1225 as relating to "borders and port of entry"). Detained individuals falling under this statue may request release through humanitarian parole under 8 U.S.C. § 1182(d)(5)(A).

26. Second, noncitizens arrested inside the U.S. are generally placed into removal proceedings under 8 U.S.C. § 1229a, during which an Immigration Judge (an "IJ")—and later potentially the Board of Immigration Appeals (the "BIA") and a U.S. Court of Appeals—will decide whether or not the person should be deported. During § 1229(a) proceedings, a noncitizen may apply for forms of relief such as asylum, withholding of removal, or cancellation of removal. The IJ will hold a series of hearings to determine if the individual is eligible for relief or eligible for deportation, which can take months or years.

27. While § 1229(a) proceedings are ongoing, noncitizens are generally subject to the detention authority of 8 U.S.C. § 1226. *See Jennings*, 583 U.S. at 288-89 (describing § 1226 detention as relating to people "inside the United States" and "present in the country"). Most of these individuals are eligible for release on bond and conditions under § 1226(a), and they are consequently entitled to a custody redetermination (a "bond hearing") before an IJ to decide whether they should be detained or released. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d).

28. Third, if a noncitizen completes their removal proceedings and all appeals, and is ordered removed, they are subject to detention under 8 U.S.C. § 1231 while the government attempts to remove them.

29. This landscape—in which noncitizens arrested inside the U.S. are generally eligible for a bond hearing and release during immigration proceedings—has existed essentially in its current form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 3003, 110 Stat. 3009-546, 3009-585 to 3009-587 (codified at 8 U.S.C. § 1226).

30. Further, this eligibility for a bond hearing and potential release has applied to noncitizens arrested in the U.S., regardless of whether they initially entered the country with or without inspection.

31. However, beginning in 2022, the Immigration Court in Tacoma, Washington began to misclassify § 1226 detainees arrested inside the U.S. as mandatory detainees under § 1225 solely because they initially entered the country without inspection. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1244 (W.D. Wash. 2025).

The U.S. District Court for the Western District of Washington ruled that this practice was likely illegal and ordered a bond hearing for a wrongfully detained litigant. *See id.* at 1263.

32. On July 8, 2025, the Department of Homeland Security and the Department of Justice adopted the Tacoma Immigration Court's unlawful practice of misclassifying bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees and refuses to conduct bond hearings on that basis. *See* Interim Guidance Regarding Detention Authority for Applicants for Admission, https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

33. On September 5, 2025, the Board of Immigration Appeals issued a precedential decision requiring Immigration Judges to misclassify bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees. *See Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025).

34. Most federal courts have already ruled that the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado* is not entitled to any deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412-13 (2024), and have rejected the BIA's decision as contrary to law.[1]

[1] Over 250 courts have adopted Petitioner's correct interpretation of the law. The following cases represent a small sampling of cases across the country. *See Lema Zamora v. Noem,* 2025 WL 2958879 (D. Mass. Oct. 17, 2025); *Chiliquinga Yumbillo v. Stamper,* 2025 WL 2783642 (D. Me. Sept. 30, 2025); *Da Saliva v. ICE,* 2025 WL 2778083 (D.N.H. Sept. 29, 2025); *Ayala Casun v. Hyde,* 2025 WL 2806769 (D.R.I. Oct. 2, 2025); *Carballo Gonzalez v. Joyce,* 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025); *Artiga v. Genalo,* 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Rivera Zumba v. Bondi,* 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Leal-Hernandez v. Noem,* 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Singh v. Lyons,* 2025 WL 2932635 (E.D. Va. Oct. 14, 2025); *Lopez Santos v. Noem,* 2025 WL 2642278 (W.D. La. Sept.

35. Many federal courts have found that noncitizens in positions like Ms. Jacho Guanoquiza's are not required to exhaust administrative remedies, including a bond hearing in immigration court, as "given the Government's position and the BIA's recent decision in *Yajure Hurtado* . . . request[ing] a bond hearing would likely be futile." *Oropeza v. Noem,* 2025 LEXIS 201993, at *6 (W.D. Mich. Nov. 21, 2025); *see also Eliseo A.A. v. Olson,* 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Adonay v. Noem,* 2025 WL 3157839 (D. Minn. Nov. 12, 2025); *Mairena-Munguia v. Arnott,* 2025 LEXIS 227477 (W.D. Mo. Nov. 19, 2025); *Salinas v. Woosley,* 2025 LEXIS 590056 (W.D. Ky. Nov. 20, 2025); *Figueroa v. Hermosillo,* 2025 LEXIS 227966 (W.D. Wash. Nov. 19, 2025); *Serrato v. Anderson,* 2025 LEXIS 228936 (D. Idaho Nov. 19, 2025).

26. Everyday, federal courts continue to "join[] [the] chorus" of courts rejecting Respondents' erroneous interpretation of the law, unlawfully detaining bond-eligible noncitizens like Ms. Jacho Guanoquiza. *See Dominguez Sanchez v. Bondi,* No. 25-cv-03682 (D. Minn. Oct. 1, 2025).[2]

## CLAIMS FOR RELIEF

### COUNT ONE

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11, 2025); *Lopez Arevalo v. Ripa,* 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Buenrostro Mendez v. Bondi,* 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Singh v. Lewis,* 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Contreras Lomeli v. Raycraft,* 2025 WL 2976739 (E.D. Mich. Oct. 21, 2025); *Sanchez Alvarez v. Noem,* 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025); *Morales Chavez v. Director,* 2025 WL 2959617 (N.D. Ohio Oct, 20, 2025); *Patel v. Crowley,* 2025 WL 2996787 (N.D. Ill. Oct. 24, 2025); *Campos Leon v. Forestal,* 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025); *Hernandez Marcelo v. Trump,* (S.D. Iowa Sept. 10, 2025); *A.A. v. Olson,* 2025 WL 2866729 (D. Minn. October 8, 2025); *Lorenzo Perez v. Kramer,* 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Echevarria v. Bondi,* 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Sabi Polo v. Chestnut,* 2025 WL 2959346 (E.D. Cal. Oct. 17, 2025); *Garcia Cortes v. Noem,* 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Salazar v. Dedos,* 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Paredes Padilla v. Galovich,* 2025 WL 3251446 (W.D. Wis. Nov. 21, 2025).

[2] *Id.*

**Violation of Fifth Amendment Right to Due Process**

37. The allegations in the above paragraphs are realleged and incorporated herein.

38. Because Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a), yet current DHS policy has Petitioner classified as a mandatory detainee under 8 U.S.C. § 1225(b)(2), the Due Process Clause of the Fifth Amendment to the United States Constitution requires that she be released on bond.

39. Thus, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

**COUNT TWO**
**Violation of 8 U.S.C. § 1226(a) and Implementing Regulations**

40. The allegations in the above paragraphs are realleged and incorporated herein.

41. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

42. Under 8 U.S.C. § 1226(a) and its associated regulations, Petitioner is entitled to bond, and any bond determination would be denied solely based on a purported lack of jurisdiction by the immigration court. *See* 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f); *see also Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025).

43. For these reasons, Petitioner's detention is therefore unlawful.

**COUNT THREE**
**Violation of Administrative Procedure Act (5 U.S.C. § 706)**

44. The allegations in the above paragraphs are realleged and incorporated herein.

45. Petitioner is being detained without a bond hearing pursuant to the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

46. The BIA's decision in *Matter of Yajure Hurtado* is unlawful because it violates the Administrative Procedure Act because the BIA's decision is arbitrary, capricious, and contrary to law.

47. Petitioner's detention is therefore unlawful.

**PRAYER FOR RELIEF**

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

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1226, and/or 5 U.S.C. § 706;

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or set bond for Petitioner and release Petitioner immediately;

(5) Enjoin respondents from removing, transferring, or otherwise facilitating the removal of Petitioner from the District of Minnesota before the ordered bond hearing;

(6) Once bond is set, the Department of Homeland Security is prohibited from filing Form EOIR-43 staying the bond;

(7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(8) Grant any further relief this Court deems just and proper.

Respectfully submitted, Dated: February 3, 2026

/s/ *Paschal O. Nwokocha*
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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Josselyn Jacho Guanoquiza, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 3rd day of February, 2026.

s/ *Paschal O. Nwokocha*
Attorney for Petitioner