UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Odrice ALISMA Petitioner, vs. **Jason STREEVAL,** Warden, Stewart Detention Center KRISTI NOEM, Secretary Department of Homeland Security; TODD LYONS, Director, Immigration Customs Enforcement; PAMELA BONDI, Attorney General; NICK ANNAN, Director, Atlanta ICE Field Office Respondents.	)	**CASE NO. 4:26-cv-226-CDL-AGH** **AMENDED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

AMENDED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner, Odrice Alisma, (Petitioner), A[redacted] files this Amended Petition under Federal Rule of Civil Procedure 15(a)(1) without leave of Court as no answer has been filed yet by Respondents. Petitioner amends his complaint to reflect that despite the fact that, despite the charges on the Notice to Appear[1] (NTA) which indicate he entered without inspection, he entered the United States on December

[1] See Exhibit A.

31, 2021, and upon entry (or shortly thereafter), he was granted humanitarian parole under INA §212(d)(5)(A) (8 U.S.C. §1182(d)(5)). Exhibit C. Petitioner, through counsel, amends these facts and arguments in this habeas accordingly.

2. Petitioner challenges his ongoing unlawful detention by U.S. Immigration and Customs Enforcement ("ICE") at the Stewart Detention Center in Lumpkin, Georgia. Petitioner is neither a flight risk nor a danger to the community.

3. Petitioner is a citizen and national of Haiti, who has been continuously detained at the Stewart Detention Center since November 5, 2025. The Stewart Detention Center in Lumpkin, Georgia, is within the jurisdiction of this Court.

4. Petitioner challenges the legality of his prolonged detention and the categorical denial of any meaningful bond hearing. Petitioner is charged as inadmissible under INA § 212(a)(6)(A)(i) (8 U.S.C. 1182 (a)(6)(A)(i)) and INA § 212(a)(7)(A)(i)(I) (8 U.S.C. 1182 (a)(7)(A)(i)(I)) Exhibit A.

5. Although the Department of Homeland Security (DHS) has characterized him as an applicant for admission, his continued detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment and exceeds the authority granted by the Immigration and Nationality Act. The NTA characterizes him as "an alien who has not been admitted **or paroled**" (emphasis added). Exhibit A.

6. Any attempt to classify Petitioner as an "arriving alien" who is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and to justify his continued confinement without bond on that basis, is legally erroneous. Petitioner's custody is governed by 8 U.S.C. § 1226(a), which expressly

contemplates discretionary detention and individualized determinations regarding release on bond.

7. There are only two categories of noncitizen lacking valid entry documents who are amenable to expedited removal: (1) certain individuals who are "arriving in the United States," and (2) subject to the designation by the Secretary of Homeland Security, "certain other" noncitizens who have "**not been admitted or paroled**" into the United States, and who cannot establish two years continuous physical presence. 8 U.S.C. § 1225(b)(1)(A)(i), (A)(iii).

8. The statute does not define the term "arriving." *CHIRLA v. Noem*, --- F. Supp. 3d ---, 2025 WL 2192986, at *27 (D.D.C. Aug. 1, 2025). The plain language and historical context demonstrate, though, that "arriving" in § 1225(b)(1)(A)(i) refers to individuals **in the process of coming** into the United States at a port of entry. First, the ordinary meaning of "arriving" supports the conclusion that the noncitizen is in the process of reaching the United States. The dictionary definition of "arriving" includes "to reach a destination," "to make an appearance" and "to be near in time." Merriam-Webster Dictionary, available at https://www.merriam-webster.com/dictionary/arriving. Thus, "[r]ead according to its plain meaning, a noncitizen 'arriving' in the United States would be one who is in the process of reaching his or her destination (the United States) and making an appearance here." *CHIRLA*, 2025 WL 2192986, at *28. "Arriving in" would not, however "be read to refer to someone who previously reached the United States via port of entry, underwent inspection at that port of entry, and then was paroled into the United States[.]" Id. Additionally, the present-progressive tense connotes continuation,

rendering "is arriving in the United States" a phrase referring to people actively in that process, which necessarily ends once the destination (the United States) is reached. Consistent with that construction, other provisions of the INA use the term "'arrive,' or some conjugation thereof, to reference physical arrival at a port of entry." Id. (citing 8 U.S.C. §§ 1225(b)(1)(F), (b)(2)(C), (d)(2)); *accord Doe v. Noem*, 152 F.4th 272, 288 (1st Cir. 2025). Thus, the plain language of the statute is best read to mean that the "arriving in" provision only applies to noncitizens who are **physically in the process of coming** into the United States at a port of entry. *CHIRLA*, 2025 WL 2192986, at *27-29. Clearly, Petitioner was not "arriving in" the United States when ICE detained him but rather was apprehended in the interior more than two years after he already entered.

9. The regulations support this result. 8 C.F.R. § 235.3(b)(1)(i) provides that "arriving aliens, as defined in 8 C.F.R. § 1.2" are subject to expedited removal. Section 1.2 defines an "arriving alien" to include "an applicant for admission coming or attempting to come into the United States at a port-of-entry, or a [noncitizen] seeking transit through the United States at a port-of-entry," or a noncitizen interdicted at sea. The regulation continues: "An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, [8 U.S.C. § 1182(d)(5)] and even after any such parole is terminated or revoked." 8 C.F.R. § 1.2. This is because a parole is not an admission into the United States, it is instead temporary authorization to be present in the United States. 8 U.S.C. § 1182(d)(5)(A). Accordingly, a noncitizen is an arriving alien under the regulation while in the process of "coming or attempting to come into the United States," while

paroled, or at the time such parole is terminated or revoked. *Id.* At the point the parole ends and the government may process for admission or pursue available removal efforts. *CHIRLA*, 2025 WL 2192986, at *26 (discussing 8 C.F.R. § 212.5(e)(2)(i)).

10. The parole statute reinforces that result. The statute provides that a noncitizen "shall continue to be dealt with in the same manner as that of any other applicant for admission" when the parole ends. 8 U.S.C. § 1182(d)(5)(A). But "applicant for admission" is necessarily broader than § 1225(b)(1)'s application to a noncitizen who is "arriving in the United States." An applicant for admission is either an individual "present in the United States who has not been admitted *or* [an individual] who arrives in the United States." 8 U.S.C. § 1225(a)(1). Under this definition, a parolee is always an applicant for admission, including when they have parole status. So it makes sense that the government would "continue to" deal with a parolee's case like any other applicant for admission, as the operative fact—presence in the United States without admission—did not change from the time the noncitizen was allowed into the United States through the time the parole ended. But that does not mean Petitioner is always "arriving in" the United States. Once Petitioner was inspected and paroled into the United States, he was no longer arriving aliens and § 1225(b) could not apply to him.

11. Notwithstanding the above nuances regarding Petitioner's parole, this case falls squarely within the parameters of *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 ((M.D. Ga. Nov. 24, 2025) in which the Middle District

of Georgia held that noncitizens found in the United States without inspection are entitled to discretionary bond hearings under Section 1226(a). The Court recently issued a Standing Order recognizing that the Government's continued refusal to provide bond hearings in such cases constitutes an administrative judicial emergency and authorizing expedited screening and immediate relief.

12. Any argument that the parole froze Petitioner's "status" to that of an arriving alien forever, such that he remained as-if he was at the border, seemingly for perpetuity, even though he had been allowed to come into the United States fails. This argument is grounded in the so-called "entry fiction" doctrine, under which a paroled noncitizen was considered in the same position as if they were still standing at the border. *See Ibragimov v. Gonzales*, 476 F.3d 125, 136-38 (2d Cir. 2007); *CHIRLA*, 2025 WL 2192986, at *23. The current statutory scheme does not support a conclusion that entry fiction should apply to render parolees amenable to expedited removal. See e.g., *American-Arab Anti-Discrimination Committee v. Ashcroft*, 272 F. Supp. 2d 650, 668 (E.D. Mich. 2003) (concluding that expedited removal cannot lawfully be applied to a noncitizen whose parole had expired or terminated under the theory that the noncitizen was an "arriving alien" despite having "resid[ed] in the interior of the United States for some time"). The parole statute does not provide a noncitizen with a specific status at the expiration of the parole, but DHS has no authority to detain such noncitizens under 8 U.S.C. 1225(b), since they are far removed from "seeking admission" or trying to enter the country.

13. For the foregoing reasons, issuance of the writ of habeas corpus is warranted. Petitioner seeks a declaratory judgment from this Court affirming that his detention

should be under 8 U.S.C. § 1226(a). The Petitioner requests an order for his immediate release without restrictions or conditions due to his unlawful arrest. Alternatively, the Petitioner seeks an order for a discretionary bond hearing under § 1226(a) before an Article III judge, where the government must prove by clear and convincing evidence that he is a danger to the community or a flight risk. Additionally, the Petitioner requests that Respondents be prohibited from re-detaining him or put any restraints on his liberty unless they can meet the same evidentiary standard.

II. JURISDICTION

14. This Court has jurisdiction under several legal provisions, including 28 U.S.C. § 2241, which grants federal courts the authority to issue writs of habeas corpus, and 28 U.S.C. § 1331, which provides for federal question jurisdiction. Jurisdiction over habeas claims is conferred by 28 U.S.C. § 2241, while non-habeas claims for declaratory and injunctive relief arise under 28 U.S.C. § 1331, the APA, and the Declaratory Judgment Act.

15. Additionally, jurisdiction is supported by Article I, § 9, cl. 2 of the Constitution, known as the Suspension Clause, and Article III, Section 2, which addresses the Court's authority to hear constitutional issues raised by the Petitioner. The Petitioner seeks immediate judicial intervention to address ongoing violations of constitutional rights by the Respondents. This action is grounded in the United States Constitution, the Immigration & Nationality Act of 1952, as amended (INA), 8 U.S.C. § 1101 *et seq.*, and the APA, 5 U.S.C. § 551 *et seq*. Furthermore, the Court may also exercise jurisdiction under 28 U.S.C. § 1331, as the action arises under

federal law, and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

16. The Court has authority to issue a declaratory judgement and to grant temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure (FRCP), as well as 28 U.S.C. §§ 2201-2202. Additionally, the Court can utilize the All Writs Act and its inherent equitable powers to provide such relief. Furthermore, the Court has the authority to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

17. This Court possesses federal question jurisdiction under the APA to "hold unlawful and set aside agency action" deemed "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," as outlined in 5 U.S.C. § 706(2)(A). In the absence of a specific statutory review process, APA review of final agency actions can proceed through "any applicable form of legal action," which includes actions for declaratory judgments, writs of prohibitory or mandatory injunction, or habeas corpus, in a court of competent jurisdiction, as specified in 5 U.S.C. § 703.

18. In *I.N.S. v. St. Cyr*, the Supreme Court held that federal courts retain *habeas corpus* jurisdiction under 28 USC § 2241, despite restrictions on judicial review enacted under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). 533 U.S. 289 (2001). Consequently, section 2241 habeas review remains available to Petitioner.

19. The U.S. Supreme Court has recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging

deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law. Even though the government may detain individuals during removal proceedings, *Demore v. Kim*, 538 U.S. 510, (2003) (although that case involved detention under §1226(c) of certain criminal aliens), there are limitations to this power of the executive branch. Limitations like the Due Process Clause restrict the Government's power to detain noncitizens. It is well settled that individuals in deportation proceedings are entitled to due process of law under the Fifth Amendment. *Reno v. Flores*, 507 U.S. 292, 306, (1993). Courts must review immigration procedures and ensure that they comport with the Constitution.

20. Federal courts have retained the statutory authority to grant writs of habeas corpus since enactment of the Judiciary Act of 1789. In *Felker v. Turpin*, 518 U.S. 651 (1996), the Supreme Court declined to find a repeal of § 2241 by implication as to its original habeas corpus jurisdiction. See also *Boumediene v. Bush,* 553 U.S. 723 (2008). In addition to the Supreme Court in many cases, all Circuit Courts of Appeals have recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law.

21. In this case, Petitioner asserts substantial constitutional violations—including deprivation of liberty without due process, arbitrary and capricious agency action, violations of the *Accardi* doctrine, and other injuries without notice or opportunity to be heard. These claims fall squarely within the scope of habeas review preserved by statute and recognized by controlling precedent. Accordingly, this Court has

both the authority and the obligation to adjudicate the constitutional and statutory claims presented in this Petition and to grant appropriate relief to remedy ongoing violations of Petitioner's rights.

22. Petitioner's claims challenge only his civil immigration detention and the procedures used to prolong it—not the merits of removability or any final order of removal—and therefore fall outside 8 U.S.C. § 1252(b)(9)'s channeling provision. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (detention challenges are not "questions of law or fact arising from" removal proceedings). Consistent with that framing, any injunctive relief sought here is strictly as-applied to Petitioner—for example, directing Petitioner's release under § 1226(a) or barring application of § 1225 as to Petitioner —and does not "enjoin or restrain the operation" of any statute within § 1252(f)(1)'s bar. In any event, § 1252(f)(1) permits individualized, as-applied relief for a single noncitizen, even while prohibiting class-wide injunctions. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–49 (2022).

23. Section 1252(f)(1) does not bar the individualized injunctive relief sought here. That provision limits lower courts' authority to "enjoin or restrain the operation" of the INA's detention and removal provisions on a class-wide or programmatic basis but expressly preserves injunctive relief "with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." 8 U.S.C. § 1252(f)(1); *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–50 (2022). Petitioner seeks only as-applied relief tailored to Petitioner —e.g., directing Petitioner's release under § 1226(a) or precluding DHS from enforcing the "arriving alien" definition of § 1225 toward Petitioner. That relief neither halts

the general operation of any INA provision nor provides class-wide relief and thus falls squarely within § 1252(f)(1)'s carve-out.

24. Section 1252(g) is likewise inapplicable. It is a "narrow" jurisdictional bar that applies only to three discrete decisions or actions: "to commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Petitioner does not challenge any such decision. Petitioner challenges ongoing civil detention and DHS's use of an unlawful interpretation to nullify the plain language of the INA and its regulations as applicable to these agencies. Such detention-related claims and challenges to custody procedures fall outside § 1252(g). *See id.* at 482–83; cf. *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (§ 1252(b)(9) does not channel detention claims).

25. To prevent ouster of this Court's habeas jurisdiction, the Court should, pursuant to 28 U.S.C. § 1651(a) (All Writs Act) and 28 U.S.C. § 2241, issue an immediate limited order prohibiting Respondents from transferring Petitioner outside the court's District or otherwise changing Petitioner's immediate custodian without prior leave of Court while this action is pending. Such relief is necessary in aid of jurisdiction because habeas is governed by the district-of-confinement/immediate-custodian rule, and transfer can frustrate effective review. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441–42 (2004); *Ex parte Endo*, 323 U.S. 283, 307 (1944); *FTC v. Dean Foods Co.*, 384 U.S. 597, 603–05 (1966).

26. This Complaint in part also seeks a civil action for mandamus, injunctive and declaratory relief brought pursuant to 8 U.S.C. §§ 1329, 1331, 1391, 2201 and 28

U.S.C. § 1361 (to compel an officer or employee of the United States or agency thereof to perform a duty owed to the plaintiff). Jurisdiction is also conferred by 5 U.S.C. §555(b) which directs agencies to conclude matters presented to them "within a reasonable time," § 704 (no other adequate remedy), and § 706 (to compel agency action unlawfully withheld or unreasonably delayed). *See* also 5 U.S.C. § 551 *et seq.*; 5 U.S.C. § 701 *et seq.* Relief is requested pursuant to said statutes and 28 U.S.C. § 1361 (Mandamus Act), (to compel an officer or employee of the United States or agency thereof to perform a duty owed to the plaintiff), 28 U.S.C. § 2201 (Declaratory Judgment Act), 28 U.S.C. § 2202 (injunctive relief), and 28 U.S.C. § 2412 (costs and fees). Relief is requested pursuant to said statutes.

III. VENUE

27. Venue is proper in the United States District Court for the Middle District of Georgia because Petitioner is currently detained at Stewart Detention Center in the Middle District, under the custody of the Department of Homeland Security ("DHS"). Respondents are the Petitioner's immediate custodians and Respondents exercise authority over Petitioner's custody in this jurisdiction, as supported by *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). Habeas petitions generally are filed in the district court with jurisdiction over the filer's place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241. Additionally, with respect to Petitioner's non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. § 1391(e)(1)(B)

because a substantial part of the events or omissions giving rise to these claims, including the initial arrest and continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in this District. Furthermore, the Respondents are officers of United States agencies, the Petitioner resides within this District, and there is no real property involved in this action.

28. Administrative remedies are also inadequate under these circumstances. Petitioner challenges the legality of his continued civil detention under the Constitution and the Immigration and Nationality Act, claims that fall squarely within the province of the federal courts.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

29. Although 28 U.S.C. **§ 2241 does not impose a statutory exhaustion requirement, courts may consider whether a petitioner has pursued available administrative remedies.**

30. Any prudential exhaustion requirement is satisfied or, in the alternative, should be excused here. Petitioner has effectively been denied any available administrative remedy to challenge his custody. He filed a formal bond request with the immigration court, and the immigration court denied bond on December 29, 2025 under *Matter of Yajure Hurtado,* 29 I & N 216 (BIA 2025). Exhibit B.

31. Further administrative review would be futile. The Board of Immigration Appeals lacks authority to grant habeas relief or to adjudicate the constitutional claims raised in this Petition. Because the Immigration Judge expressly

disclaimed jurisdiction to consider bond, no administrative remedy is available to address the legality of Petitioner's detention.

V. PARTIES

32. Petitioner, Odrice Alisima, is a citizen and national of Haiti who is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

33. Respondent, Jason Streeval, is the Warden of the Stewart Detention Center, who has immediate physical custody of Petitioner and is a proper respondent in this action. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004). He is being sued in his official capacity.

34. Respondent, Todd Lyons, is the acting Director of the United States Immigration and Customs Enforcement and is responsible for national detention policies and practices. He is being sued in his official capacity.

35. Respondent, Nick Annan, is the Atlanta Field Office Director of the Immigration and Customs Enforcement and exercises legal authority over Petitioner's detention. Respondent Annan is responsible for the oversight of ICE operations at the Detention Centers around Georgia. Respondent Annan is being sued in his official capacity. He is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took place under his direction and supervision. He is also the immediate *legal* custodian of Petitioner.

36. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Noem is the cabinet-level official responsible for the general administration and enforcement of the immigration laws

of the United States. Respondent Secretary Noem is being sued in her official capacity.

37. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as her designees at the Executive Office for Immigration Review (EOIR).

VI. STATEMENT OF FACTS

38. Petitioner entered the United States without inspection on December 31, 2021 at Del Rio, Texas. He was apprehended on January 18, 2022 and then paroled under 8 USC § 1182(d)(5) on February 16, 2022 to apply for asylum. Exhibit C[2]. The parole was granted by letter (without a form I-94) under § 1182(d)(5)(A) and constitutes "parole into the United States." According to the USCIS website: "[t]he statute provides exceptions to the accrual of unlawful presence to the following aliens: Asylees and asylum applicants: Generally, time while a bona fide asylum application is pending is not counted as unlawful presence. under INA § 212(a)(9)(B) or 8 U.S.C. § 1182(a)(9)(B)."[3] Petitioner timely filed for asylum on September 12, 2022. Exhibit C. It was never adjudicated. According to the I-213 narrative, Petitioner's parole expired on February 13, 2024. On November 5, 2025 when he reported to his scheduled ICE check in, Petitioner was arrested and taken into ICE custody and served with a

[2] It should be noted that the documents at Exhibit C states it was translated to the Petitioner in Spanish and also note Spanish as his primary language, though he actually speaks Haitian Creole, not Spanish.
[3] https://www.uscis.gov/laws-and-policy/other-resources/unlawful-presence-and-inadmissibility?utm_source=chatgpt.com

Notice a Appear on November 6, 2025 charging him as inadmissible under INA § 212(a)(6)(A)(i) and § 212(a)(7)(A)(i)(I). See Exhibit A. He was not apprehended at the time of entry or charged as an "arriving alien," but as an "alien present without being admitted or paroled." Exhibit A. However, he was paroled after entry. Exhibit C. Petitioner applied for Temporary Protected Status and for asylum. Petitioner remains detained and has been continuously confined since November 5, 2025.

39. On December 29, 2025, at a custody redetermination hearing, an Immigration Judge (IJ) of the Stewart Immigration Court found no jurisdiction to consider a bond application under *Matter of Yajure Hurtado, supra.* Exhibit B.

40. After filing this Writ of Habeas Petition, and receiving the Court's Order, ECF #3, Petitioner received a "bond hearing" with IJ Andrew Hewitt on February 13, 2026 during which he found the relief "speculative" and thus denied bond.

VII. ARGUMENT

JURISDICTIONAL BAR TO BOND HEARING

41. Petitioner was treated as an arriving alien; the Immigration Judges concluded that INA § 1225(b) deprived the court of authority to review ICE's custody determination. Relying on agency interpretations of the immigration detention statutes, the Immigration Judges declined to consider whether Petitioner's continued detention was justified by any flight risk or danger he might pose. No individualized assessment of Petitioner's suitability for release was ever conducted.

42. This categorical jurisdictional bar foreclosed any meaningful review of Petitioner's detention at an early stage of her confinement. Petitioner was denied the basic procedural safeguard of a bond hearing, even as her detention began and continued for months. The ordinary process by which a detainee could seek reconsideration of custody status was entirely unavailable to Petitioner, setting the stage for her prolonged confinement without the benefit of the case-by-case evaluation that Congress ordinarily provides in INA § 1226(a) custody redeterminations.

PROLONGED DETENTION WITHOUT A BOND HEARING

43. As Petitioner's removal case progressed, he remained jailed without any opportunity for release. By late 2025, multiple federal district courts in Georgia had issued decisions recognizing that noncitizens in Petitioner's circumstances, longtime residents detained within the United States and charged under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i) are entitled to individualized bond hearings under 8 U.S.C. § 1226(a), notwithstanding DHS's contrary view.

44. Despite this growing body of case law, the Immigration Judge's at the Stewart Immigration Court continue to apply a blanket rule that they cannot entertain a bond request. The Immigration Judges refuse to evaluate Petitioner's individual circumstances and make any findings as to whether Petitioner might be a flight risk or a danger to the community.

45. As a result, Petitioner remains detained based solely on a legal interpretation that denies him any opportunity for an individualized custody review. More than four months have passed since Petitioner was first confined, and during that time he has never had a hearing to determine whether his detention is necessary or justified based on the merits of whether he is a flight risk or a danger to the community. Less restrictive alternatives to incarceration, such as release on a reasonable bond or other conditions, have never been considered.

46. The continued categorical denial of a bond hearing has left Petitioner with no administrative avenue to secure his freedom while he awaits the resolution of his immigration case.

PETITIONER'S ARREST AND DETENTION ARE UNLAWFUL *AB INITIO*

47. Petitioner's detention is unlawful from its very inception because his arrest by ICE violated the clear and restrictive statutory framework established by Congress. The Immigration and Nationality Act (INA) provides only two potential authorities for a civil immigration arrest in the interior of the United States. The primary authority, 8 U.S.C. § 1226(a), explicitly requires that an arrest be conducted "[o]n a warrant issued by the Attorney General". The statute provides a narrow exception to this rule in 8 U.S.C. § 1357(a)(2), which permits a warrantless arrest only where an

officer has reason to believe the individual is unlawfully present and is "likely to escape before a warrant can be obtained." Respondents satisfied neither of these statutory requirements, rendering the seizure of Petitioner a legal nullity from the outset.

48. The warrantless seizure of Petitioner was statutorily invalid because Respondents could not possibly meet the exigency requirement of 8 U.S.C. § 1357(a)(2). The "likely to escape" determination is a mandatory prerequisite, not mere surplusage. *See United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 878 (S.D. Ohio 2016). Here, it was a factual impossibility for Petitioner to pose a risk of escape, as she was already secured in the custody of local law enforcement when ICE officers took her. As courts have recognized, the government cannot justify a warrantless arrest under this exception without an "individualized assessment" of flight risk, and the argument that any person in local custody is inherently likely to escape upon release has been rejected. Since the exception for a warrantless arrest is inapplicable, Respondents' only remaining authority was 8 U.S.C. § 1226(a), which required a warrant that Respondents did not possess. Having failed under both statutory provisions, the arrest was void *ab initio*.

49. An arrest conducted without statutory authority is an unreasonable seizure under the Fourth Amendment. The constitutional violation here may be compounded if the initial stop was predicated on impermissible racial profiling rather than specific, articulable facts suggesting unlawful activity.

50. In this case, Petitioner was original subject to expedite removal, but then granted parole in order to apply for asylum in February 2022[4] when ICE released him.

[4] The parole document shows it was done in February 2022, but the I-213 narrative incorrectly states February 2023.

He timely filed for asylum within 1 year of entry to the US in September 2022. The I-213 narrative claims that after filing for asylum, he was then scheduled for a credible fear interview, which he did not attend. However, Petitioner was never notified of such interview, and the interview would have been unnecessary since he was already paroled out and already applied for asylum. Petitioner was then placed in INA § 240 proceedings or proceedings under 8 U.S.C. § 1229a which are regular removal proceedings where Petitioner has the right to bring any claim for relief from removal that the Immigration Judge can grant, including asylum and withhold of removal.

CLAIM FOR RELIEF

COUNT ONE

51. Unlawful Arrest in Violation of the Fourth Amendment and the INA (8 U.S.C. §§ 1226(a), 1357(a)(2))Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

52. Petitioner's seizure and detention are unlawful *ab initio* because her arrest violated the clear statutory framework established by Congress and the Fourth Amendment's prohibition on unreasonable seizures. The primary authority for a civil immigration arrest in the interior of the United States requires that it be conducted "[o]n a warrant." 8 U.S.C. § 1226(a). The narrow exception for a warrantless arrest under 8 U.S.C. § 1357(a)(2) demands a showing that the individual is "likely to escape before a warrant can be obtained"

53. Respondents failed to meet either requirement. It was a factual impossibility for Petitioner to be "likely to escape" in that situation as described in the facts and procedural history above. Having failed to satisfy the statute's mandatory exigency requirement, Respondents' only lawful path to arrest Petitioner was to obtain a warrant under 8 U.S.C. § 1226(a), which they have failed to do.

54. An arrest conducted without any statutory authority is an unreasonable seizure in violation of the Fourth Amendment. Because the initial seizure was void, the government's custody over Petitioner's person is the direct "fruit of the poisonous tree" and is incurably tainted. A subsequent bond hearing cannot remedy a detention that never had a lawful beginning. The only proper remedy for this fundamental statutory and constitutional violation is immediate and unconditional release.

COUNT TWO

Unlawful Revocation of Petitioner's Parole in Violation of Due Process

55. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

56. Petitioner's July 2025 entry pursuant to her approved advance parole was a grant of parole into the United States under 8 U.S.C. § 1182(d)(5)(A), which authorizes DHS, in its discretion, to "parole into the United States temporarily under such conditions as [it] may prescribe" any applicant for admission. DHS exercised that authority and allowed Petitioner to live and work in the community for a substantial period while her adjustment application remained pending, subject to routine ICE

check-ins and other parole conditions. Under these circumstances—where DHS has affirmatively conferred conditional liberty and permitted her to structure her life around it—Petitioner retains a protected liberty interest in remaining free from immigration detention that is cognizable under the Fifth Amendment's Due Process Clause.

57. Under 8 C.F.R. § 212.5(e)(2)(i), when "in the opinion" of the authorized DHS official neither humanitarian reasons nor public benefit warrant continued parole, parole is terminated by written notice and the noncitizen is "restored to the status that he or she had at the time of parole." Here, Respondents effectively terminated Petitioner's parole and restored her to "applicant for admission" status by serving a Notice to Appear and taking her into immigration custody, without: (a) advance written notice that her parole would be terminated; (b) any statement of reasons for termination; or (c) any pre-deprivation custody redetermination hearing before a neutral decisionmaker to determine whether revocation of parole and re-detention were necessary to serve any legitimate regulatory purpose.

58. As *Morrissey v. Brewer*, 408 U.S. 471 (1972), and *Gagnon v. Scarpelli*, 411 U.S. 778 (1973), recognize, individuals living at liberty on parole or probation enjoy a significant "conditional" liberty interest and may not be re-incarcerated without basic procedural safeguards, including notice, an opportunity to be heard, and a neutral decisionmaker. Courts have applied the same logic in the immigration context, holding that noncitizens who have been released from detention on bond or parole and allowed to live and work in the community cannot be summarily re-detained without a pre-deprivation hearing.

59. In *Aviles-Mena v. Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215, at *3, *5 (N.D. Cal. Sept. 5, 2025), the court emphasized that "even individuals who face significant constraints on their liberty or over whose liberty the government wields significant discretion retain a protected interest in their liberty," and treated immigration parole under 8 U.S.C. § 1182(d)(5)(A) as a form of conditional liberty analogous to criminal parole or probation for purposes of the *Mathews v. Eldridge* due-process analysis.

60. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the "specific dictates of due process" are evaluated by considering: (1) the private interest affected; (2) the risk of erroneous deprivation and the value of additional safeguards; and (3) the government's interests and the burdens of additional procedures.

61. First, Petitioner's private interest in remaining out of custody is weighty. She has been lawfully paroled into the United States under § 1182(d)(5)(A), has resided with her family, operated businesses employing U.S. workers, and complied with all immigration requirements. As *Aviles-Mena* recognized, where DHS has already found a parolee suitable for release and allowed him to live and work in the United States for years, the liberty interest in continued freedom from detention is substantial. *Aviles-Mena v. Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215 (N.D. Cal., Sep. 5, 2025).

62. Second, the risk of an erroneous deprivation of that liberty is high under Respondents' current practice. By definition, DHS's prior decision to grant Petitioner parole and permit her continued residence in the community reflected a determination, under § 1182(d)(5)(A) and 8 C.F.R. § 212.5, that she was not a

danger or flight risk. Respondents have identified no materially changed circumstances—no new criminal conduct, no violation of parole conditions, no failure to appear—that would justify re-detention. A brief pre-deprivation custody hearing before a neutral adjudicator, at which the government bears the burden to show that termination of parole and re-detention are necessary to prevent flight or danger, would substantially reduce the risk that Petitioner is re-incarcerated for reasons unrelated to any valid statutory purpose.

63. Third, the government's interest in re-detaining Petitioner without any pre-deprivation hearing is minimal. Providing advance written notice and a prompt individualized custody hearing would not diminish DHS's ability to effect removal or protect the public; it would simply require the agency to articulate and substantiate the basis for revoking parole and returning Petitioner to custody, and to do so before rather than after the deprivation occurs. The automatic termination of parole does not grant the government "carte blanche" to re-detain a noncitizen where no valid statutory purpose is served. Civil immigration detention must be nonpunitive and bear a reasonable relation to statutory purposes, such as preventing flight or danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Given Petitioner's demonstrated lack of flight risk or danger and the absence of any changed circumstances justifying re-detention, the government's actions appear arbitrary and lack a legitimate non-punitive purpose.

64. As *Aviles-Mena* held on materially similar facts, the incremental administrative burden of a brief pre-deprivation hearing is slight compared to the severe deprivation of liberty imposed by renewed civil detention.

65. Balancing the *Mathews* factors, Respondents' revocation of Petitioner's parole and her detention without advance notice and a pre-deprivation hearing before a neutral decisionmaker violate the procedural component of the Fifth Amendment's Due Process Clause. See *Aviles-Mena v. Kaiser*, Case No. 25-cv-06783-RFL, 2025 WL 2578215, at *5–7 (N.D. Cal. Sept. 5, 2025) (enjoining ICE from re-detaining a long-paroled asylum seeker "without notice and a pre-deprivation hearing before a neutral decisionmaker").

66. Petitioner is therefore entitled to declaratory and injunctive relief prohibiting Respondents from terminating her parole or re-detaining her in ICE custody absent: (a) advance written notice of the proposed termination and the factual basis for re-detention; and (b) a prompt pre-deprivation custody hearing before a neutral decisionmaker at which the government bears the burden to demonstrate that revocation of parole and detention are necessary to serve legitimate, nonpunitive statutory purposes.

COUNT THREE
Statutory Violation of the Immigration and Nationality Act, Agency Regulations And the Accardi Doctrine

67. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

68. Petitioner's detention is the direct result of a cascade of unlawful agency actions that violate the plain text of the Immigration and Nationality Act (INA), contravene decades of binding agency regulations, and therefore constitute a flagrant violation of the *Accardi* doctrine. Respondents are unlawfully detaining Petitioner by

misclassifying her as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b) when the statutes and the agency's own rules unambiguously require her case to be processed under 8 U.S.C. § 1226(a), which provides for discretionary release on bond.

69. First, Respondents' actions defy the clear statutory scheme established by Congress. The INA creates two distinct detention frameworks: § 1225 governs the inspection and mandatory detention of aliens "arriving in the United States," while § 1226(a) governs the discretionary detention of aliens arrested "in the United States" on a warrant. Petitioner, a long-term resident apprehended in the interior, falls squarely within the latter category. By applying the "arriving alien" framework to her, Respondents unlawfully erase this critical statutory distinction.

70. Second, Respondents' actions violate their own binding regulations and long-standing practice. For over two decades, agency regulations have implemented the statutory distinction by explicitly providing for bond eligibility for interior apprehensions. After Congress amended the INA in 1996, the agency issued an interim rule clarifying that noncitizens "present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination" under 8 U.S.C. § 1226. This policy is enshrined in regulations such as 8 C.F.R. §§ 236.1 and 1236.1. The new policy articulated in the July 2025 ICE memorandum and the *Yajure Hurtado* decision represents a radical and unlawful departure from these established rules.

71. Finally, by defying their own statutes and regulations, Respondents have violated the *Accardi* doctrine, a bedrock principle of administrative law that commands that

federal agencies are bound by their own rules. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The *Accardi* doctrine applies with full force not only to formal regulations but also to internal policies and guidance that confer "important procedural benefits upon individuals," such as the right to a bond hearing. *Am. Farm Lines v. Black Ball Freight Serv.*, 397 U.S. 521, 538 (1970); *see also Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991).

72. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service (now DHS) issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 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 IJs under 8 U.S.C. § 1226 and its implementing regulations.

73. This is not a mere procedural error; it is a fundamental breach of the rule of law. Respondents cannot simply ignore decades of their binding procedures to achieve a policy goal of mass mandatory detention. Because Respondents' actions were taken in direct contravention of the INA and their own established rules, those actions are invalid, rendering Petitioner's resulting detention unlawful and requiring this Court to set it aside.

COUNT FOUR
Violation of the Fifth Amendment of the U.S. Constitution
Procedural and Substantive Due Process

74. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

75. Petitioner's detention is a profound offense to the Fifth Amendment, violating her rights to both substantive and procedural due process. It is axiomatic that the Due Process Clause applies to all persons within the United States, regardless of immigration status, and that "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Respondents' actions trample upon this fundamental right.

<u>Liberty Interest Created by Parole</u>

76. Petitioner's claim arises at the intersection of the Fifth Amendment and the government's discretionary parole authority under 8 U.S.C. § 1182(d)(5)(A), which permits DHS to "parole into the United States temporarily under such conditions as [it] may prescribe" noncitizens applying for admission. Implementing regulations confirm that such parole is a grant of conditional freedom: DHS may parole individuals only where they present neither a security risk nor a risk of absconding, and provides that parole terminates either automatically upon expiration or, "when in the opinion" of the authorized official humanitarian reasons or public benefit no longer warrant continued presence, by written notice restoring the person "to the status that he or she had at the time of parole." 8 C.F.R. § 212.5(b), (e)(2)(i).

77. Although § 1182(d)(5)(A) does not itself create a substantive entitlement to be

granted or to retain parole, because the statute commits the parole decision to the Attorney General's discretion, *Kwai Fun Wong v. United States*, 373 F.3d 952, 971–72 (9th Cir. 2004), courts have repeatedly held that once the government has actually exercised that discretion to release a noncitizen into the community, the resulting conditional freedom gives rise to a protected liberty interest in remaining free from immigration detention. In *Aviles-Mena v. Kaiser*, the court held that a noncitizen paroled under § 1182(d)(5)(A) who had been "lawfully living and working in the United States" for years possessed a "substantial private interest in remaining out of custody once he has been granted parole and has spent a significant time lawfully and freely residing in the United States," and therefore retained a liberty interest that had to be evaluated under *Mathews v. Eldridge* before detention.

78. Parallel decisions hold that a DACA recipient must be provided with due process before their DACA is terminated. See *Inland Empire - Immigrant Youth Collective v. Nielsen*, No. 17-cv-2048, 2018 WL 4998230, at *19 (C.D. Cal. Apr. 19, 2018); *Medina v. U.S. Dep't of Homeland Sec.*, No. 17-cv-218, 2017 WL 5176720, at *9 (W.D. Wash. Nov. 8, 2017); *DHS v. Regents of the University of California*, 591 U.S. 1 (2020). Although DACA is a discretionary benefit, not an entitlement, once DACA is conferred, a recipient has a protected property interest in retaining that benefit. See *Inland Empire*, 2018 WL 4998230, at *19. A core benefit of DACA is that it allows recipients to live, study, and work in the United States without fear of arrest or deportation. It would be incongruous to find that DACA recipients acquire a constitutionally protected interest in their DACA benefit, but

not one of its essential facets: their liberty.

79. This position also finds support in the longstanding principle in the criminal context that due process requires a pre-deprivation hearing before the revocation of parole. See *Espinoza v. Kaiser*, 2025 WL 2581185, at *9 (citing *Young v. Harper*, 520 U.S. 143, 147–49 (1997)). "The parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." Id. (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). Parolees thus have a protected liberty interest in their "continued liberty." Id. (citation omitted). A number of district courts have extended this reasoning to the immigration context and held that once released from immigration custody, noncitizens acquire "a protectable liberty interest in remaining out of custody on bond." *Diaz v. Kaiser*, No. 25-cv-5071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025) (collecting cases); accord *M.S.L.*, 2025 WL 2430267, at *8 ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond." (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025) (same). Likewise, *Aviles-Mena* emphasized that "even individuals who face significant constraints on their liberty or over whose liberty the government wields significant discretion retain a protected interest in their liberty," and treated immigration parole as a form of conditional liberty analogous to criminal parole or probation for purposes of due process analysis.

80. Accordingly, where DHS has paroled a noncitizen under § 1182(d)(5)(A), allowed that person to live and work in the community subject to reporting and other conditions, and later seeks to terminate parole and re-detain her, due process protects her liberty interest in remaining free from physical custody. Petitioner does not claim a statutory right to parole itself; rather, she invokes the Fifth Amendment liberty interest that arises once the government has conferred conditional freedom and now seeks to revoke it by returning her to immigration detention.

81. Substantive Due Process: The detention is substantively unconstitutional because it is arbitrary and serves no legitimate, non-punitive purpose. Civil immigration detention is permissible only to prevent flight or danger to the community. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 846 (2018). As established, Petitioner is neither a flight risk nor a danger. Petitioner's mandatory detention, without any individualized assessment, bears no reasonable relation to any legitimate government purpose and is therefore arbitrary deprivation of liberty, excessive, and unconstitutional.

82. Procedural Due Process: Even if a legitimate purpose for detention existed, the procedures used to effectuate it are constitutionally rotten. Due process demands a "meaningful opportunity to be heard at a meaningful time and in a meaningful manner" before a neutral decision-maker. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). The current scheme—whereby Respondents unilaterally subject Petitioner to mandatory detention based on an unlawful policy—entirely lacks these fundamental safeguards and fails the

three-part balancing test set forth in *Mathews*:

83. The Private Interest: Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail determination, is "without question, a weighty one." Landon v. Plasencia. Petitioner is being held in jail in the same conditions as criminal inmates, unable to work and is far from family. At minimum, the government must come forward with concrete, case-specific reasons that outweigh Petitioner's substantial liberty interest in continued release.

37. The risk of erroneous deprivation of liberty is extreme. The system lacks any neutral adjudicator, as ICE is acting as both prosecutor and judge, a structural defect that creates a constitutionally intolerable risk of wrongful deprivation, as highlighted in *Marcello v. Bonds*, 349 U.S. 302, 305-306 (1955). Respondents are effectuating prolonged detention based on their own self-serving interpretation of the law, with no check on their power. This risk is exacerbated by the coordinated actions of both DHS and EOIR, which operate under a unified approach that effectively denies bond to noncitizens in Petitioner's situation, thereby unilaterally depriving them of their liberty.

38. The Government's Interest: The government's interest in enforcing its detention policy is minimal, if not entirely illegitimate. There is no valid government

interest in enforcing an interpretation of the law that is contrary to the plain text of the INA, that conflicts with its own regulations providing for bond hearings under 8 U.S.C. § 1226(a), and that is based on a policy (*Matter of Yajure Hurtado*) that has been judicially declared untenable. The government has no cognizable interest in violating the law or wasting taxpayer resources on the unnecessary detention of individuals who are neither dangerous nor flight risks.

78. All three *Mathews* factors weigh decisively in Petitioner's favor. The current scheme is fundamentally unfair, unconstitutional, and deprives Petitioner of liberty without the process that is, and has always been, due.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the ongoing deprivation of liberty and irreparable harm:

1. Grant the Petition for Writ of Habeas Corpus and, pursuant to its authority under 28 U.S.C. § 2243, order Respondents to immediately and unconditionally release Petitioner from custody, because her detention is unlawful *ab initio* under both 8 U.S.C. § 1225 (misclassification as an "arriving alien") and 8 U.S.C. § 1226(a) (failure to obtain the statutorily required warrant for an interior arrest), and rests solely on agency actions that are contrary to the INA, ultra vires, arbitrary and capricious, and adopted and applied in violation of the Accardi doctrine, as set forth in the APA/Accardi claim.
2. In the alternative, should the Court decline to order immediate unconditional

release, issue an order directing Respondents to provide Petitioner with a bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a) and its implementing regulations at 8 C.F.R. §§ 236.1 and 1236.1 within forty-eight (48) hours of the Court's order, and further specifying that at any such hearing: (a) the government bears the burden of proving that Petitioner is either a flight risk or a danger to the community; and (b) the government must satisfy that burden by clear and convincing evidence, consistent with *J.G. v. Warden, Irwin Cty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020), which followed circuit precedent adopting this standard in the immigration bond context (including *Singh* and *Lopez*), in order to prevent the recurring problem of perfunctory bond denials based on unsupported assertions of risk rather than actual evidence;

3. Enjoining Respondents, upon Petitioner's release, from subjecting Petitioner to any form of electronic monitoring, GPS ankle bracelet, ISAP enrollment, or other alternative-to-detention program that functions as a custody-like restraint, absent prior leave of this Court. Respondents shall be prohibited from imposing such conditions unless, at least five (5) days in advance, they file notice with this Court and demonstrate—based on a new, particularized assessment of significantly changed circumstances and a concrete, evidence-based showing of flight risk or danger—that such conditions are necessary, and the Court expressly authorizes them pursuant to its authority under 28 U.S.C. § 2243 to dispose of the matter as law and justice require.
4. Issue an Order to Show Cause directing Respondents to file a return within three

(3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;

5. ENJOIN Respondents from re-detaining Petitioner in the future under 8 U.S.C. § 1225 or the DHS policy vacated by the *Maldonado Bautista* court;
6. REINSTATE Petitioner's parole unlawfully revoked

   and ENJOIN Respondents from terminating Petitioner's parole or re-detaining her in ICE custody (including for purposes of executing any removal order) without: (a) advance written notice of the proposed parole termination and the factual basis for re-detention; and (b) a prompt, pre-deprivation custody hearing before a neutral decisionmaker, at which the government bears the burden to demonstrate that termination of parole and detention are necessary to serve a legitimate regulatory purpose, as required by the Fifth Amendment's Due Process Clause and consistent with *Aviles-Mena v. Kaiser*, 2025 WL 2578215 (N.D. Cal. Sept. 5, 2025).
7. Award Petitioner reasonable attorney's fees and costs; and
8. Grant such other and further relief as this Court deems just, proper or equitable under the circumstances.

This 22nd Day of February, 2026.

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 22nd day of February 2026.

Rachel Effron Sharma

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