

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

ELENA DEL ROCIO SINCHE-
ATARIGUANA,
Petitioner,

v.

Civil Action No. 3:26-cv-00471

PAMELA BONDI, ATTORNEY GENERAL,

KRISTI NOEM, SECRETARY, U.S.
DEPARTMENT OF HOMELAND
SECURITY,

TODD M. LYONS, ACTING DIRECTOR OF
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

MARISA FLORES, DIRECTOR, EL PASO
FIELD OFFICE IMMIGRATION AND
CUSTOMS ENFORCEMENT,

AND

CURTIS TAYLOR, MAJOR GENERAL,
U.S. ARMY AT CAMP BLISS.
Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Ms. Elena Del Rocio Sinche-Atariguana (“Ms. Sinche-Atariguana” or “Petitioner”), by and through the undersigned attorney, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement (“ICE”) to issue an order requiring Ms. Sinche-Atariguana be transferred back to Minnesota for the duration of these proceedings and released from ICE custody. If the Court sees fit to order release, Petitioner respectfully requests specific relief to ensure a safe return home, including release: (1) in Minnesota, (2) at a safe place/time communicated in advance to counsel; (3) with all her personal effects, such as driver’s license, passport, immigration documents, wallet, keys, and cell phone; and (4) without conditions such as worn GPS tracking devices, telephonic tracking, or use of the SmartLINK app.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Ms. Sinche-Atariguana seeks to challenge this custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Denmore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Ms. Sinche-Atariguana is detained within the Western District of Texas.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

PARTIES

7. Petitioner is a citizen of Ecuador and a resident of Minneapolis, MN, who is currently being held at the El Paso Processing Center in El Paso, Texas. Petitioner is under the direct control of the respondents and has no scheduled release date.

8. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Ms. Sinche-Atariguana.

9. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a),

routinely transacts business in the Western District of Texas, supervises the ICE field offices, and is legally responsible for pursuing Ms. Sinche-Atariguana's detention and removal. As such, Respondent Noem is a legal custodian of Ms. Sinche-Atariguana.

10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

11. Respondent Marisa Flores is being sued in her official capacity as the Field Office Director for the El Paso Field Office for ICE within DHS. In that capacity, Field Office Director Marisa Flores has supervisory authority over the ICE agents responsible for detaining Ms. Sinche-Atariguana. The address for the El Paso Field Office is 8915 Montana Ave, El Paso, Texas, 79936.

12. Respondent Mary De Anda-Ybarra is being sued in her official capacity as the Acting Field Office Director for the ERO El Paso Camp East Montana for ICE within DHS. In that capacity, Field Director De Anda-Ybarra has supervisory authority over the ICE agents responsible for detaining Petitioner.

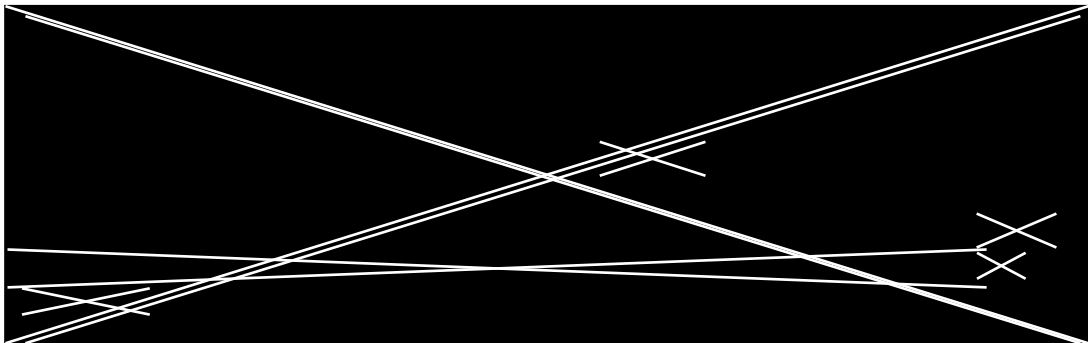
13. Respondent Major General Curtis Taylor is being sued in his official capacity as the Commanding General responsible for the ERO El Paso Camp East Montana Detention Center within the U.S. Army Fort Bliss. Because Petitioner is detained in the ERO El Paso Camp East Montana Detention Center, Major General Taylor has immediate day-to-day control over Petitioner.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

A. Ms. Sinche-Atariguana's Entry, Efforts to Obtain Asylum, and Her Unlawful Detention.

14. Petitioner is a resident of Minneapolis and a citizen of Ecuador, and has lived in the United States since February of 2024. Ms. Sinche-Atariguana entered the United States through the Roma, Texas Border Patrol center. She was detained for one day, and then released by the Border Patrol. She has a valid work permit.

15. Ms. Sinche-Atariguana has a pending asylum case. According to the OSAC Country Security Report Ecuador published March 10, 2025, Ecuador is subject to high rates of violence and transnational organized crime.



<https://www.osac.gov/Content/Report/19e89ddd-38d6-4062-aa6d-1c2aad29162d> (last accessed February 15, 2026)

16. Ms. Sinche-Atariguana lives with her fiancé and minor child in Minnesota. They rely on her for support in the home. Ms. Sinche-Atariguana is a caring mother and a dedicated member of her community.

17. Ms. Sinche-Atariguana does not have a pending order of removal. She has regularly attended meetings for her ongoing asylum case.

18. On January 9, 2026, Ms. Sinche-Atariguana was attending a meeting for her ongoing asylum case when the clerk at the office called ICE, who then arrived and detained Ms. Sinche-Atariguana at her appointment. They did not present a warrant, nor did they confirm her identity before detaining her. Upon information and belief, Respondent did not have a warrant for this arrest.

19. Ms. Sinche-Atariguana has no criminal history.

20. Petitioner has been brought to El Paso Processing Center in El Paso, Texas.

21. Detaining Ms. Sinche-Atariguana is an expensive and pointless endeavor. Ms. Sinche-Atariguana respectfully seeks the opportunity to return home to Minnesota and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

22. Pending the adjudication of this Petition, Ms. Sinche-Atariguana further seeks an order restraining the Respondents from transferring Petitioner to a location outside of the Western District of Texas, so that the jurisdiction of this Court is not impeded, and so that Petitioner remains accessible to legal counsel and loved ones.

B. Systemic Interstate Transfers of Detained Minnesota Residents Impair Their Access to Justice.

23. In connection with “Operation Metro Surge” in Minnesota, Respondents are transporting detained Minnesotans out of state with shocking speed and frequency, making it difficult or impossible to identify the location of detained individuals, let alone facilitate access to counsel. *See, e.g.,* Ellie Roth, Observer: ICE Detainee Flights Increase at MSP as Enforcement Action Ramps Up, MPR NEWS (Jan. 14, 2026 4:00 A.M.),

<https://www.mprnews.org/story/2026/01/14/ice-detainee-flights-leaving-msp-increase-as-surge-continues> (last accessed Feb. 15, 2026). Numerous Minnesota residents are now spread across the nation, including at least Texas, Nebraska, Kentucky, and New Mexico.

24. Upon information and belief, ICE often flies detainees out of Minnesota without completing standard processing procedures. Upon information and belief, this violates ICE's policies and procedures. It also creates a heightened risk of detainees being lost in the system. *See The Advocates for Human Rights and L.H.M v. U.S. Department of Homeland Security, et al.*, Doc. No. 95, case no. 26-cv-749 (NEB/DLM) (D. Minn. Feb. 12, 2026) ("Plaintiff's evidence suggests that since Operation Metro Surge began, Defendants' policies and practices at Whipple all but extinguish a detainee's access to counsel" through immediate transfer out of state, difficulty locating detainees, limited phone calls, and other means.)

25. Upon information and belief, ICE is often prohibiting detainees from visiting with attorneys before boarding a flight out of Minnesota. *See The Advocates for Human Rights and L.H.M v. U.S. Department of Homeland Security, et al.*, Doc. No. 95, case no. 26-cv-749 (NEB/DLM) (D. Minn. Feb. 12, 2026) ("These rapid transfers impede attorneys' 'ability to meet with clients, develop facts, consult meaningfully, and seek timely judicial review of detention decisions.'")

26. Upon information and belief, ICE's systematic transfer of most detainees out of Minnesota is motivated, at least in part, by a desire to impair detainees' ability to raise meritorious challenges to the legality of their detention and to forum shop away from the District of Minnesota, where claims for relief that are the same or similar to those presented

in the instant Petition frequently have been granted in whole or in part Petitioner has been brought to the El Paso Processing Facility in El Paso, Texas.

27. Upon information and belief, ICE’s systematic transfer of most detainees out of state is motivated, at least in part, by a desire to demoralize detainees by isolating them from their communities, their loved ones, and their counsel. This may encourage detainees to waive their legal rights and sign voluntary deportation agreements. *See The Advocates for Human Rights and L.H.M v. U.S. Department of Homeland Security, et al.*, Doc. No. 95, case no. 26-cv-749 (NEB/DLM) (D. Minn. Feb. 12, 2026) (“Despite these policies and practices that make attorneys inaccessible to detainees, Defendants pressure detainees to sign voluntary removal forms (i.e., self-deportation) without being allowed to talk to counsel.”)

LEGAL FRAMEWORK AND ANALYSIS

A. The Great Writ

28. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by US Courts 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). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 22441(c)(3).

29. The Court must grant a petition for writ of habeas corpus or issue an order to show cause 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.*

30. Courts have jurisdiction to hear habeas petitions filed by noncitizens who have no final removal order, whose challenges to their arrest and detention are “independent of any future removal order.” *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *3 (W.D. Tex. Sept. 22, 2025). Nor is a petitioner required to first exhaust administrative remedies where, as here, petitioner is not appealing a final order of removal. *Id.* at 6.

31. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

B. Respondent’s Interpretation of Sections 1225 and 1226 Flies in the Face of the Plain Meaning of the INA.

32. The long-standing agency interpretation of the INA was that section 1225 governed detention of noncitizens at or near the border, while section 1226 governs “detention of those who are already present in the United States.” *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *4 (W.D. La. Sept. 11, 2025) (citing *Jennings*, 583 U.S. at 303). For decades, noncitizens apprehended while already present in the United States were generally entitled to a bond hearing, unless their criminal history rendered them ineligible under section 1226(c).

33. In July of 2025, Respondent DHS, “in coordination with” the DOJ began ignoring the decades-long consensus of how 8 U.S.C. § 1225(b)(2) should be interpreted, claiming that any noncitizen who ever entered without inspection is subject to mandatory detention under section 1225(b)(2)(A), regardless of when they entered, when they are apprehended, and how their ongoing detention may impact them and their families.¹

34. On September 5, 2025, the Board of Immigration Appeals (“BIA”) parroted this novel interpretation in a published decision, *In re: Yajure Hurtado*, 29 I & N Dec. 216 (BIA Sept. 5, 2025). There, the BIA held that all noncitizens who are present in the United States without admission are subject to mandatory detention under section 1225(b)(2)(A) and are ineligible for bond hearings. *Yajure Hurtado*, 29 I&N at 216. Respondents suddenly claim that individuals who have been residing within the United States for more than two years are somehow “seeking admission,” simply because they may have pending claims for asylum or other forms of status.

35. However, this Court and the majority around the country have made clear that 8 U.S.C. § 1225(b)(2) only authorizes detention for noncitizens who are at the border seeking physical entry at the time of detention, not those who have lived within the United States for more than two years, and whose detention is discretionary and governed by 8 U.S.C. § 1226(a).

In recent weeks, courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect. *See Lopez-Campos v. Raycraft*, — F. Supp. 3d —, — n.5, 2025 WL 2496379, at *8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting

¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

twelve such decisions); *see, e.g., Jimenez v. FCI Berlin, Warden*, — F. Supp. 3d —, — & n.9, 2025 WL 2639390, at *10 & n.9 (D.N.H. Sept. 8, 2025). That includes courts in the Fifth Circuit. *Lopez Santos*, 2025 WL 2642278, at *5; *Kostak v. Trump*, No. 25-cv-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025).

Lopez-Arevelo, 2025 WL 2691828, at 8.

C. The Fifth Circuit’s Decision in Buenrostro Is Incorrect.

36. On February 6, 2026, a three judge panel of the Fifth Circuit Court of Appeals issued an opinion overruling this growing body of judicial analysis and holding that §1225(b)’s mandatory detention provisions may be applied to all applicants for admission to the U.S. who entered without inspection, whether they were apprehended at the border or after a period of living in the country. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026). *Buenrostro-Mendez* did not address any issues other than this narrow question of statutory construction. *Id.* In particular, the opinion does not examine any due process challenge to the mandatory detention policy. *Id.*

37. Petitioner notes the *Buenrostro-Mendez* ruling on statutory construction is highly likely to generate a circuit split and reach the Supreme Court, given the broad consensus among courts across multiple circuits that §1225(b) cannot be read so broadly. Indeed, in December 2025, the Seventh Circuit, in ruling on the government’s emergency motion to stay a district court’s decision to order release of detainees, wrote that “given the factual record before us, we conclude that Defendants are not likely to succeed on the merits of their argument that those individuals, whom ICE arrested in Chicago without a

warrant, are subject to mandatory detention under § 1225(b)(2)(A).”² *Castanon-Nava v. U.S. Dep’t Homeland Security*, 161 F.4th 1048, 1601 (7th Cir. 2025). Accordingly, Petitioner asserts claims for relief rooted in challenges to the application of § 1225(b) in this case so as to preserve those claims.

38. Here, Petitioner was apprehended within the United States, not at a border while seeking entry. In fact, Ms. Sinche-Atariguana presented herself at the border, was detained, and was then released into the United States. Respondents wrongly assert 8 U.S.C. § 1225(b)(2) as a basis for detaining Ms. Sinche-Atariguana without a hearing, when instead the default rule is that detention of noncitizens residing within the U.S. must be pursuant to 8 U.S.C. § 1226(a). *See Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200 (W.D. Tex. Jan. 8, 2026). Here, Respondents are not purporting to invoke § 1226(a) as the basis for Petitioner’s detention. The rule that Respondents invoke, 8 U.S.C. § 1225(b)(2), does not support Petitioner’s ongoing detention.

D. Buenrostro Does Not Foreclose Constitutional Claims.

39. The Fifth Circuit panel’s decision in Buenrostro addressed only the statutory habeas claim. *See* 2026 WL 323330. Accordingly, other claims for habeas relief sounding in the U.S. Constitution, such as due process claims, are not foreclosed by Buenrostro.

40. Accordingly, Petitioner wishes to highlight for this Court a number of decisions in which District Courts have granted habeas relief solely on grounds that due process requires an individualized bond hearing, in the cases of detained individuals who

² And, on February 3, 2026, the Seventh Circuit held oral argument on the merits in the *Castanon-Nava* case. *See* <https://media.ca7.uscourts.gov/oralArguments/oar.jsp?caseyear=&casenumber=&period=Past+month>.

do not challenge §1225(b) as the basis for their detention. *See, e.g., Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *7 (W.D. Tex. Oct. 21, 2025) (“Regardless, Hernandez-Fernandez challenges his ongoing detention on constitutional grounds, as a violation of due process. . . . Therefore, the Court need not consider whether the agency’s new mandatory detention policies reflect a proper reading of the INA. The issue, instead, is whether those policies have been applied to Hernandez-Fernandez in an unconstitutional manner.”); *Pineda Parada v. Rice*, No. 25-CV-1660, 2025 WL 3146250, at *3 (W.D. La. Nov. 4, 2025) (“He is seeking review by this court of a constitutional claim – due process – as he is being subjected to mandatory detention under § 1225(b).”); *Azalyar v. Raycraft*, No. 1:25-CV-916, 2026 WL 30741, at *2 (S.D. Ohio Jan. 2, 2026) (“Azalyar brings this challenge on constitutional grounds . . . and asserts that his due process rights have been violated by his continued detention without a custody redetermination hearing.”); *Gonzalez-Albornoz v. Olson*, No. CV-25-208-DLB, 2026 WL 251955, at *2 (E.D. Ky. Jan. 30, 2026) (“Thus, unlike many recent habeas corpus petitions this Court has reviewed, Petitioner is not arguing that he is being improperly detained under 8 U.S.C. § 1225. Rather, Petitioner states that the issue before this Court is “whether the detention here was lawful *ab initio* [sic] and whether the Fourth and Fifth Amendment Procedural Due Process rights of the Petitioner were violated by the Respondents.”)

41. Courts examining the application of § 1225 to petitioners who, like Ms. Sinche-Atariguana, were not detained upon entry and who have lived in the United States for some time have routinely found that mandatory detention is unconstitutional as applied to these individuals, because “non-punitive detention in the immigration context violates

the Due Process Clause,’ absent ‘adequate procedural protections’ or a ‘special justification’ outweighing a petitioner’s liberty interest.” *Gonzalez-Albornoz*, 2026 WL 251955, at *3 (citing *Azalyar*, 2026 WL 30741, at *3 (quoting *Padilla v. United States Immigr. & Customs Enf’t*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2003) and *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001))).

42. In fact, there have been at least three decisions in this district issued post-*Buenrostro* granting habeas relief on due process grounds, and which expressly hold that *Buenrostro* “does not change the case’s outcome on procedural due process grounds.” See *Hassen v. Noem*, 3:26-cv-00048-DB, Doc. No. 8, n.1 (W.D. Tex. Feb. 9, 2026); *Clemente Ceballos v. Garite*, 3:26-cv-00312-DB, Doc. No. 6, n.2 (W.D. Tex. Feb. 10, 2026); *Cajamarca Alomoto v. Bondi*, 3:26-cv-00142-KC, Doc. No. 9 (W.D. Tex. Feb. 12, 2026) (ordering release of detainee from custody.)

E. The Due Process Framework.

43. The Western District of Texas thoughtfully analyzed the due process issue in *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923, at *8. The Petitioner in *Hernandez-Fernandez* was engaged in active asylum proceedings and had not been previously detained. *Hernandez-Fernandez*, 2025 WL 2976923 at *7-8. He lived in the United States for some time, until he was swept up in the recent policy change and detained under the government’s new mandatory detention policy. *Id.* The *Hernandez-Fernandez* court declined to analyze whether the new, expanded interpretation of § 1225(b)’s mandatory detention authority is lawful, noting instead that the policy as applied “fail[s] to contend with the liberty interests created by the fact that the Petitioner[] in this case [was] released

on recognizance *prior to the manifestation of this interpretation.*” (citing *Lopez-Arevelo v. Ripa*, 801 F.Supp.3d 668, 677–78 (W.D. Tex. 2025) (internal citations omitted)).

44. The Court applied the familiar three factor test set out in *Mathews v. Eldridge* to determine whether the new mandatory detention policy was unconstitutional as applied to the petitioner. *Hernandez-Fernandez*, 2025 WL 2976923 at *7-8 (citing *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976); *Martinez v. Noem*, No. 5:25-CV-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025)). The *Mathews* factors examine: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335, 96 S.Ct. 893.

45. As to the first factor, the private interest affected by the challenged action, the *Hernandez-Fernandez* court noted that “[t]he interest in being free from physical detention’ is ‘the most elemental of liberty interests.’ ” *Hernandez-Fernandez*, 2025 WL2976923, at *8 (quoting *Martinez v. Sec. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025)). The court did not reach whether a mandatory detention policy can lawfully cabin that interest for individuals arrested near the border, but instead found that the petitioner, who had been living in the interior of the U.S. and who had an ongoing asylum proceeding, had a protected liberty interest in remaining free while his case continued. *Hernandez-Fernandez* 2025 WL2976923, at *8 (citing *Lopez-*

Arevelo v. Ripa, 801 F.Supp.3d 668, 677–78 (W.D. Tex. 2025); *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *10 (E.D. Cal. Sept. 5, 2025)). The *Hernandez-Fernandez* court noted that “once released from immigration custody, noncitizens acquire ‘a protectable liberty interest in remaining out of custody on bond.’” *Id.* (quoting *Diaz v. Kaiser*, No. 25-CV-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025) (collecting cases)); accord *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at *8 (D. Or. Aug. 21, 2025) (“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-02157, 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025) (same).

46. The second *Mathews* factor examines “whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks.” *Hernandez-Fernandez*, 2025 WL 2976923 at *9 (citing *Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *3 (W.D. Tex. Sept. 8, 2025) (quoting *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025)). The *Hernandez-Fernandez* court found that the immigration court’s current policy of mandatory detention without bond under § 1225 creates a “high risk that [Petitioner] has been and will continue to be erroneously deprived of his liberty.” *Hernandez-Fernandez*, 2025 WL 2976923 at *9 citing *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *11 (E.D. Cal. Sept. 5, 2025)). Because “individualized custody determinations ... consider[ing] flight risk and dangerousness” are

a safeguard that is typically available and that would “greatly reduce the risk of an erroneous deprivation of his liberty,” the court found the second *Mathews* factor favored the petitioner. *Hernandez-Fernandez*, 2025 WL 2976923, at *9 (citing *Velesaca v. Decker*, 458 F. Supp. 3d 224, 242 (S.D.N.Y. 2020)).

47. Finally, the *Hernandez Fernandez* court examined the third *Mathews* factor: “the government’s interest in ensuring that noncitizens appear for their removal hearings and do not pose a danger to the community.” *Hernandez-Fernandez*, 2025 WL 2976923, at *9. The Court found the petitioner’s involvement in ongoing asylum proceedings on a non-detained basis “‘reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.’” *Id.* (quoting *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d* 905 F.3d 1137 (9th Cir. 2018)).

48. The court further noted that any incremental cost resulting from the need to provide bond hearings to people like petitioner “cannot be terribly burdensome, given the BIA concedes in *Yajure Hurtado* ‘[w]e acknowledge that for years Immigration Judges have conducted bond hearings for aliens who entered the United States without inspection.’” *Hernandez-Fernandez*, 2025 WL 2976923, at *10 (quoting *In re: Yajure Hurtado*, 29 I&N Dec. 216, 226 (BIA 2025)); *accord Singh v. Andrews*, No. 25-CV-00801, 2025 WL 1918679, at *8 (E.D. Cal. July 11, 2025) (“In immigration court, custody hearings are routine and impose a ‘minimal’ cost.”) (*Doe v. Becerra*, 787 F.Supp.3d 1083, 1094–95 (E.D. Cal. 2025)). The *Hernandez-Fernandez* court thus found this factor also weighs in favor of habeas relief.

49. Based on this analysis of the *Mathews* factors, the *Hernandez-Fernandez* court ruled that “detaining [the petitioner] without any individualized assessment of his flight risk and dangerousness deprives him of his constitutional right to procedural due process under the Fifth Amendment of the United States Constitution.” *Hernandez-Fernandez*, 2025 WL 2976923, at *10. The Court noted “a growing number of district courts across the country who have found that holding people like Hernandez-Fernandez in mandatory detention without a bond hearing likely constitutes a due process violation.” *Id.* (citing *Espinoza v. Kaiser*, No. 25-CV-01101, 2025 WL 2581185, at *11–12 (E.D. Cal. Sept. 5, 2025); *Kostak v. Trump*, No. CV 3:25-CV-01093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025); *Singh v. Andrews*, No. 25-CV-00801, 2025 WL 1918679, at *8–9 (E.D. Cal. July 11, 2025) (collecting cases)).

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Respondents are Confining Petitioner without A Valid Legal Basis or any Semblance of Due Process.

50. Petitioner realleges and incorporates by reference the allegations contained above.

51. Ms. Sinche-Atariguana has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Her ongoing detention violates her substantive due process rights because her liberty is being restricted without justification. *See Hensley v. Mun. Ct., San Jose Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241(c)(3). The government’s infringement on Petitioner’s liberty interest triggers a right

to contest that infringement, for example, through a hearing before the right is deprived. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569–70 (1972).

52. As set forth above, federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

53. Here, all three factors favor the petitioner.

54. First, Ms. Sinche-Atariguana has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."). Ms. Sinche-Atariguana is wrongfully confined, a direct attack on Petitioner's liberty interests.

55. Second, Ms. Sinche-Atariguana will continue to be deprived of this interest if the current procedure (detaining Ms. Sinche-Atariguana without a legal basis) is followed. There is no rational explanation for detaining Ms. Sinche-Atariguana. Respondents' purported basis for detaining Petitioner under 8 U.S.C. § 1225(b)(2) has been

soundly rejected by this court. *See, e.g., Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200 (W.D. Tex. Jan. 8, 2026).

56. Petitioner has a cognizable due process interest in remaining free while her asylum case is pending, absent some showing that she is a flight risk or a danger to the community. *Hernandez-Fernandez*, 2025 WL 2976923, at *8. The government's dragnet arrest and policy of blanket detention without bond creates a high risk that she is being deprived of this right in error; an individualized bond hearing would greatly reduce this risk. *Id.* at *9.

57. Finally, the government's interest in ensuring that Ms. Sinche-Atariguana appears for her asylum proceedings and poses no danger to the community in the meantime can be satisfied by providing an individualized bond hearing to determine whether detention is appropriate. *Id.* at *10. The government will be hard-pressed to make such a showing. Ms. Sinche-Atariguana has appeared for her scheduled appointments – indeed she was arrested without warning and without a warrant when she last appeared for a scheduled meeting. Ms. Sinche-Atariguana has no criminal history or record. She is not a danger to the community. To the contrary, she lives a quiet life with her minor child and fiancé.

58. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Ms. Sinche-Atariguana poses no safety threats to the community. Releasing Petitioner, or at a minimum holding a bond hearing, would in fact *save* the government the resources and expense of continued imprisonment.

59. The placement of Ms. Sinche-Atariguana in detention pending the resolution of ongoing immigration proceedings violates Ms. Sinche-Atariguana’s constitutional rights to due process guaranteed in the Fifth Amendment. The only permissible detention purposes under section 1226—preventing danger and flight risk—are not present here, unlawfully infringing upon Petitioner’s liberty interest. *See Zadvydas*, 533 U.S. at 690–91; *Demore v. Kim*, 538 U.S. 510, 528 (2003). Accordingly, she should be immediately released.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

Petitioner’s Ongoing Detention Pursuant to 8 U.S.C. § 1225(b)(2) is Unlawful because Petitioner is not Seeking Admission and therefore cannot be held under that Authority

60. Petitioner realleges and incorporates by reference each and every allegation contained above.

61. Respondents violate the Immigration and Nationality Act by attempting to apply mandatory detention through 8 U.S.C. § 1225(b)(2), to Petitioner. Petitioner was nowhere near the border and was not “seeking admission.” Petitioner was detained in Bloomington, Minnesota, which is over 1400 miles from the nearest border with Mexico. Petitioner has been present in the United States since February 2024, almost two years before she was unlawfully detained.

62. When a habeas petitioner’s detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the “typical remedy” for “unlawful executive detention”).

63. To the extent the appropriate remedy in this case is a bond hearing, the burden of proof at such hearing should be on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk. *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d at 688 (consistent with the “overwhelming consensus” of courts granting habeas petitions, placing the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or a flight risk); *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859, *5 (W.D. Tex. Nov. 17, 2025) (weight of authority holds that when ordering a bond hearing as a habeas remedy, the burden of proof should be on the Government to prove by clear and convincing evidence that the detainee poses a danger or a flight risk).

COUNT THREE

Violation of the Administrative Procedure Act

Detaining Petitioner Pursuant to an Unlawful Interpretation of 8 U.S.C. § 1225(b)(2) violates the Administrative Procedure Act

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

65. Ms. Sinche-Atariguana re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

66. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

67. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

68. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens could properly be detained under § 1226(a), but would then be eligible for release on bond unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

69. Nonetheless, the Board has adopted a policy and practice of applying § 1225(b)(2) to Petitioner and others in the same position.

70. Respondents through its recent administrative decision failed to articulate any reasoned explanations for new interpretation of the Act. The Board’s decision represents a change in the agencies’ policies and positions that negates the plain language of the Act, the will of Congress, and decades of administrative precedent.

71. The application of § 1225(b)(2) to Ms. Sinche-Atariguana is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

72. When a habeas petitioner’s detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the “typical remedy” for “unlawful executive detention”).

73. To the extent the appropriate remedy in this case is a bond hearing, the burden of proof at such hearing should be on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk. *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d at 688 (consistent with the “overwhelming consensus” of courts granting habeas petitions, placing the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or a flight risk); *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859, *5 (W.D. Tex. Nov. 17, 2025) (weight of authority holds that when ordering a bond hearing as a habeas remedy, the burden of proof should be on the Government to prove by clear and convincing evidence that the detainee poses a danger or a flight risk).

74. Here, where detention is unlawfully based on 8 U.S.C. § 1225(b)(2), which does not apply to Petitioner, release is an appropriate remedy.

REQUEST FOR ORDER TO SHOW CAUSE

75. Within three days, unless good cause for a delay is shown, “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

76. Petitioner respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court’s order, showing cause, if any, why a writ of habeas corpus should not be granted.

EXHAUSTION OF ADMINISTRATIVE REMEDIES NOT REQUIRED

77. No statutory exhaustion requirement applies to a petition challenging immigration detention under 28 U.S.C. § 2241. *See, e.g., Montano v. Texas*, 867 F.3d 540, 542 (5th Cir. 2017) (“Unlike 28 U.S.C. § 2254, Section 2241’s text does not require exhaustion.”); *Robinson v. Wade*, 686 F.2d 298, 303 n.8 (5th Cir. 1982) (“[S]ection 2241 contains no statutory requirement of exhaustion like that found in section 2254(b) ”); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) (“Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.”).

78. Petitioner claims that her detention is unconstitutional because it contravenes the Fifth Amendment and is unrelated to any legitimate government purpose. Exhaustion is not required where a claimant raises a constitutional claim that an agency would clearly reject. *Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012) (citing *Taylor v. U.S. Treasury Dep’t.*, 127 F.3d 470, 477 (5th Cir. 1997) (holding that a claim challenging the constitutionality of a regulation should not be dismissed for failure to exhaust with the agency enforcing the regulation)).

79. Further, “[w]here Congress has not clearly required exhaustion, sound judicial discretion governs.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In exercising that discretion, a court must weigh an individual’s interest in accessing the court against the institutional interests in exhaustion: protecting agencies’ authority and promoting judicial efficiency. *Id.* at 145–46.

80. An individual's interests "weigh heavily against requiring administrative exhaustion" when requiring exhaustion may unduly prejudice the plaintiff, when there is "some doubt as to whether the agency was empowered to grant effective relief," and when an administrative body is biased or has pre-determined the issue before it. *Id.* at 146–48.

81. Courts should not require exhaustion because of the risk of undue prejudice where there is an "unreasonable or indefinite timeframe for administrative action," or alternatively, where the petitioner "may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *Id.* at 147. Ms. Sinche-Atariguana is irreparably harmed by her unlawful detention in and of itself, and would continue to be irreparably harmed for whatever period would be necessary for further exhaustion.

82. The Supreme Court has found "some doubt" sufficient to remove the exhaustion requirement where a case challenges "adequacy of the agency procedure itself," or where an agency lacks "institutional competence to determine the constitutionality of a statute." *Id.* at 147–48. Petitioner claims that her detention and the related agency procedure of denying bond hearings is unconstitutional because it contravenes the Fifth Amendment and is unrelated to any legitimate government purpose.

83. Moreover, further action with the agency is unnecessary where pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *Id.* at 148. The BIA's decision in *Matter of Yajure Hurtado* demonstrates that the agency has predetermined the key issue in this petition. There, the agency stated that it believes people who have entered without inspection, are detained under section

1225(b)(2)(A) and subject to mandatory detention.³ *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Further appeal to the BIA would be futile. See *Gallegos-Hernandez*, 688 F.3d at 194. Accordingly, there are no genuine or meaningful administrative remedies available to Ms. Sinche-Atariguana and exhaustion is not required.

PRAYER FOR RELIEF

WHEREFORE, Ms. Sinche-Atariguana prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be removed from the United States or transferred outside of the Western District of Texas while this habeas petition is pending;
- (3) Issue an Order requiring Respondents to show cause within three days as to why this petition should not be granted;
- (4) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner to Minnesota unless they provide a bond hearing under 8 U.S.C. § 1226(a) within three days at which time the burden of proof will be on the Government to prove by clear and convincing evidence that Petitioner poses a danger or flight risk;

³ *Matter of Yajure Hurtado* applied to individuals who entered without inspection. By contrast, Ms. Sinche-Atariguana presented herself at the border, was detained, and then released. Nonetheless, because Respondents apparently believe Ms. Sinche-Atariguana is also subject to mandatory detention by virtue of the fact that she is currently in detention, further appeal in these circumstances would also be futile.

- (5) If the Court sees fit to order Petitioner's release, specified relief to ensure a safe return home, including release:
 - (a) Inside of Minnesota
 - (b) At a safe time and place communicated in advance to counsel; and
 - (c) With all of Petitioner's personal effects, such as driver's license, immigration papers, passport, cell phone, wallet, and keys.
- (6) Enjoin Respondents from implementing any condition of release, including ICE's "Alternatives to Detention" measures, which include ankle-monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application;
- (7) Grant any preliminary relief to which Petitioner has shown herself to be entitled;
- (8) Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- (9) Grant any other and further relief that this Court may deem just and proper.

Date: February 17, 2026

/s/ Jennifer Rappoport
Asra Syed
State Bar 24119398
Jennifer Rappoport
State Bar No. 24072761
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Attorneys for Petitioner

**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed the factual assertions in this petition with Petitioner's Minnesota representative, who in turn has discussed these assertions with Petitioner's mother, who is also acting on Petitioner's behalf and who I understand to have personal knowledge of the facts alleged herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: February 17, 2026

/s/ Jennifer Rappoport
Attorney for Petitioner

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Elena Del Rocio Sinche-Atariguana

(b) County of Residence of First Listed Plaintiff El Paso
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Botkin Chiarello Calaf PLLC, 1209 Nueces St, Austin, TX 78701

DEFENDANTS

Pamela Bondi, Attorney General, et al.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS Habeas Corpus: ☒ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC § 2241

Brief description of cause:
Write of Habeas Corpus

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

Feb 17, 2026

SIGNATURE OF ATTORNEY OF RECORD

/s/ Jennifer Rappoport

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.