FILED
U.S. District Court
District of Kansas
03/16/2026
Clerk, U.S. District Court
By: SND Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DULCE ROMERO MIRANDA

Petitioner

v.

JACOB WELSH,
Chase County, KS Sheriff and Warden
Of Chase County jail
(in his official capacity only);

CHRISTOPHER CHAMBERLAIN
Asst. Director Kansas City Field Office,
Immigration and Customs Enforcement
(in his official capacity only); and

PAMELA BONDI,
Attorney General of the United States,
(in her official capacity only);

KRISTI NOEM,
Secretary of Homeland Security,
(in her official capacity only);

Respondents

Civil No. 26-3052-JWL

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF FOR AN ORDER TO SHOW CAUSE

PRELIMINARY STATEMENT

1. Petitioner Dulce Romero Miranda brings this petition for a writ of habeas corpus to seek immediate release from confinement due to the legally erroneous nature of her

detention as well as the denial of her Fifth Amendment rights to Due Process. Petitioner is in the physical custody of Respondents at the Chase County Jail. She now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have deemed her subject to mandatory detention in violation of the clear language of the Immigration and Nationality Act.

JURISDICTION

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

3. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Chase County jail.

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

5. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE AND TRIAL LOCATION DESIGNATION

6. Venue is proper because Petitioner is detained at Chase County Jail in Cottonwood Falls, Kansas which is within the jurisdiction of this District.

7. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States reside and a substantial part of the events or

omissions giving rise to his claims occurred in this District. No real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243 AND

APPLICATION FOR AN ORDER TO SHOW CAUSE

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

9. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

10. Pursuant to 28 U.S.C. § 2243, Petitioner, ("Petitioner or ") respectfully requests that the Court issue an order to all Respondents requiring them to show cause why the Petitioner's Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief pursuant to 28 U.S.C. § 2241; 28 U.S.C § 1331; Article I, § 9, cl. 2 of the United States Constitution; the All Writs Act, 28 U.S.C. § 1651; the

Administrative Procedure Act, 5 U.S.C. § 701; and the Declaratory Judgment Act, 28 U.S.C. § 2201 should not be granted and why Respondents should not be ordered to release Petitioner from detention.

11. Pending adjudication of these claims, Petitioner asks for an order enjoining Respondents from transferring Petitioner from the jurisdiction of the Kansas City Field Office of the Immigration & Customs Enforcement ("ICE") Office of Enforcement and Removal Operations ("ERO") and this District.

PARTIES

12. Petitioner is currently detained in Chase County, Kansas. She entered the United States in about 1998, when she was only two or three years old, and was not at that time detained by Respondents. She was then detained by Respondents on or about March 8, 2026 and to date no removal proceedings have been instituted despite her detention.

13. Respondent Jacob Welsh is the Chase County, Kansas Sheriff and Warden of the Chase County Jail. He has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Arnott is the legal custodian of Petitioner.

14. Respondent Christopher Chamberlain is the Assistant Field Office Director of the Kansas City Field Office, Immigration and Custom's Enforcement, Respondent Chamberlain is a legal custodian of Petitioner and has authority to release him.

15. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. In this capacity, Respondent Bondi is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees the Immigration Court system via the Executive Office for Immigration Review ("EOIR"), a part of the Department of Justice. This agency, under her control, is responsible for conducting Bond hearings, ordering the release of individuals in removal proceedings, like Petitioner.

16. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's arrest and detention. Respondent is a legal custodian of Petitioner.

STATEMENT OF THE CASE

Factual Background

17. Petitioner entered the United States without authorization in about 1998, when she was only two to three years old. She was not detained by the Respondents at that time, and has resided in the United States ever since. Ms. Romero Miranda has three United States citizen children who she was living with and working to provide for prior to her detention by Respondents. Ms. Romero Miranda also has no criminal history other than basic traffic tickets.

18. On March 8, 2026 she was detained by Respondents and is now being held in the Chase County jail. She has no scheduled hearings with the Kansas City Immigration Court, and does not appear in their online system at all. Thus, despite detaining her, they have not instituted removal proceedings for her to be able to challenge either he detention or her removal from the country.

Legal Background

Detention Provisions of the Immigration and Nationality Act

19. Congress drafted separate sections of the INA to deal with different bases for the detention of people coming to or already in the United States, who find themselves in removal proceedings.

20. 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

21. Alternatively, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

22. Lastly, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

23. The dispute here deals with sections §§ 1226(a) and 1225(b)(2). These detention provisions were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

24. After Congress enacted IIRIRA, EOIR promulgated its own regulations which stated that those who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

25. For almost thirty years, noncitizens who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229

(1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

26. Congress itself has amended who is subject to mandatory detention under 8 U.S.C. § 1226, adding the commission of certain crimes requiring people in removal proceedings to no longer be eligible for release on bond. See, Laken Riley Act. If Congress viewed all persons in the country without authorization subject to 8 U.S.C. § 1225, there would have been no need for the Laken Riley Act at all. Thus, under the Supreme Court's statutory interpretation canons, it follows that Congress did not intend for § 1225 to apply to noncitizens in the country who have not been inspected or admitted.

27. This year that all changed when ICE, "in coordination with" the Department of Justice (DOJ) issued a policy on July 8, 2025, that rejected the well-established understanding of the statutory framework and reversed decades of practice.

28. "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] states that anyone who entered the United States without inspection is to be deemed subject to the mandatory detention provisions of § 1225(b)(2)(A), regardless of when they entered, where they entered, or when they were arrested by DHS, even if they had been physically present in the United States for decades.

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

29. The BIA issued *Matter of Yajure Hurtado* on September 5, 2025, which adopts this same argument, turning on its head decades of practice in the immigration courts. The Board found that any and all noncitizens placed in removal proceedings who entered without inspection or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

30. The overwhelming majority of District Courts have found that the government's change of position with respect to mandatory detention of all persons found to have previously entered the country without authorization is contrary to the plain language of the statute.[2] This includes several courts within the Tenth Circuit: *Diaz Colin v. Holt*, 2025 WL 3645176 (W.D. Okla. Dec. 16, 2025); *Duran Serrato v. Kopp*, 25-cv-245 (D. Wyo. Nov. 18, 2025); *Cortez-Gonzalez v. Noem*, No. 2:25-CV-00985-MLG-KK, 2025 WL 3485771 (D.N.M. Dec. 4, 2025); and *Jimenez Facio v. Baltazar*, 2025 WL 3559128 (D. Colo. Dec. 12, 2025), et al.[3] This Court recently made the exact same finding in *Galdamez Orellana v. Welsh*, Case Number: 26-2019-JWL (D. Ks. 03/13/2026).

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[2] See, "Courts have ruled 4,400 times that ICE jailed people illegally. It hasn't stopped." By Nate Raymond, Kristina Cooke and Brad Heath, Reuters, updated Feb. 14, 2026. https://www.reuters.com/legal/government/courts-have-ruled-4400-times-that-ice-jailed-people-illegally-it-hasnt-stopped-2026-02-14/

[3] We note that recently the Fifth Circuit issued a decision reaching the opposite conclusions, agreeing with the position of the Respondents over a strenuous objection which sides with the majority of District Courts, including this one, who have found otherwise. See, *Buenrostro-Mendez v. Bondi*, Case No. 25-20496 (5th Circuit. 02/06/2026)[https://www.ca5.uscourts.gov/opinions/pub/25/25-20496-CV0.pdf].While the Fifth Circuit is the first to reach a decision, there are several Circuits in which decisions are expected shortly, and in any event the Fifth Circuit's decision does not bind this Court.

31. Recently, the Ninth Circuit stayed the impact of *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (CD Cal. 2026) outside of the Central District of California, which is why the Kansas City Immigration Court denied Petitioner bond, finding it has no jurisdiction under *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). See, *Maldonado Bautista v. DHS*, Case No. 26-1044 (9th Cir. 03/06/2026).

Remedies

Direct Release or a Bail Hearing Held By This Court Are the Appropriate Remedies

32. The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Schlup v. Delo*, 513 U.S. 298, 319 (1995) ("[H]abeas corpus is, at its core, an equitable remedy"). This Court should order a remedy that fully addresses the statutory and constitutional violations in this case and is efficient to administer. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (the habeas statute "does not limit the relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may be granted").

33. Release is the customary remedy in habeas proceedings. *See* 28 U.S.C. § 2243 (the habeas should shall "dispose of the matter as law and justice require."); *Preiser v. Rodriguez,* 411 U.S. 475, 484 (1973) (finding "that the traditional function of the writ is to secure release from illegal custody"). The most appropriate remedy in a case like this, where Petitioner has been held without even being placed in proceedings in violation of both the INA and due process, is release on recognizance without further

conditions of release. This is particularly true given the national reporting which indicates that while bond hearings were being conducted prior to the Ninth Circuit's stay in *Maldonado Bautista*, they were essentially sham hearings where those seeking bond are being denied on flight risk or dangerous findings that are unsupported by the evidence. See, "Judges keep ordering immigration hearings —but say the results are often a sham," By Kyle Cheney, Politico, March 6, 2026.[4]

34. Dozens of courts across the country have agreed. *See, e.g., Munoz Materano v. Arteta*, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release); *Chipantiza- Sisalema v. Francis*, 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (same); *Rueda Torres v. Francis*, No. 25-cv-8408, 2025 WL 3168759, at *6 (S.D.N.Y. Nov. 13, 2025) (same); *Cifuentes v. Soto*, No. 25-cv-18029, 2025 WL 3771380, at *4 (D.N.J. Dec. 31, 2025) (same); *Gonzalez Centeno v. Lowe*, No. 3:25-cv-2518, 2026 WL 94642, at *4 (M.D. Pa. Jan. 13, 2026) (same); *Feisal O. v. Noem,* No. 26-cv-81, 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026) (same); *Garcia Covarrubias v. Holston*, No. 2:25-cv-02445, 2026 WL 25970, at *4 (D. Nev. Jan. 5, 2026) (same) *Kenzhebaev v. Noem*, No. 1:25-cv-1786, 2025 WL 3737975, at *9 (W.D. Mich.Dec. 29, 2025) (same); *Kobilov v. O'Neill*, No. 26-cv-0058, 2026 WL 73475, at *3 (E.D. Pa. Jan. 8, 2026) (same, finding a bond hearing unnecessary where there was no record indication petitioner was a danger or flight risk); *Ortega-Aguirre v. Noem*,

[4] https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660 (accessed 03/07/2026).

No. 4:25-cv-04332, 2025 WL 3684697, at *4 (S.D. Tex. Oct. 10, 2025) (same); *Bumbila Iza v. Arnott*, No. 6:25-cv-3392, 2026 WL 67152, at *5 (W.D. Mo. Jan. 8, 2026) (same); *see also Mata Velasquez v. Kurzdorfer*, --- F. Supp. 3d ---, No. 25-cv-493, 2025 WL 1953796 (W.D.N.Y. July 16, 2025) (ordering release and that petitioner could not be re-detained without a pre-deprivation hearing); *Gil v. Warden, Otay Mesa Det. Ctr.*, No. 3:25-cv-03279, 2025 WL 3675153, at *4 (S.D. Cal. Dec. 17, 2025) (same); Sekhon v. Warden of Golden State Annex Det. Facility, No. 1:25-cv-1692, 2026 WL 74151, at *4 (E.D. Cal. Jan. 9, 2026) (same).

35. Release is the only appropriate remedy for the constitutional violations in this case, including the lack of pre-deprivation notice or individualized review before Petitioner's arrest, which cannot be remedied by a post-deprivation hearing. *See Alfaro Herrera v. Baltazar*, No. 1:25-cv-04014, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner had been previously released to the community and holding a bond hearing would prolong his unlawful detention, "[r]espondents' violations of Petitioner's rights are best remedied by ordering Petitioner's immediate release from immigration detention."); *Qasemi v. Francis*, No. 25-cv- 10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an adequate remedy for the due process violations in petitioner's sudden arrest and detention); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026)(ordering release, finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or

individualized assessment); *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing).

36. We note again that he was arrested on March 8, 2026 without any charging document being filed in Immigration Court. She also has been residing in the United States since 1998 when she was two to three years old, and she has three United States citizen children. Ordering her immediate release and facilitating her return to her residence is the most appropriate remedy in this case.

Bail Hearing by the Habeas Court

37. In the alternative, the habeas court can hold its own custody hearing and determine whether the government can prove by clear and convincing evidence that Petitioner must remain in custody, or whether she may be released on recognizance, an appropriate bond in light of her ability to pay, or supervised release. This is a more efficient and effective remedy than ordering an immigration judge to conduct a hearing, which may lead to additional enforcement proceedings and delays before the unlawful detention in this case is remedied. *See L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D.

Mass 2010) (granting petition and discussing at length habeas court's equitable power, which includes power to hold its own bail hearing); *see also Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court-ordered bond hearing was not individualized and did not comport with due process, and granting motion to enforce to hold the court's own bond determination); *Ramirez v. Watkins*, No. 10-cv-126, 2010 WL 6269226, at *19-20 (S.D. Tex. Nov. 3, 2010), *rep. and rec not reached,* (S.D. Tex. Dec. 8, 2010) (dismissing case as moot) (recommending the habeas court conduct its own bail inquiry, as it would be more efficient, ensure supervision over any compliance issues, and avoid further proceedings).

38. In this case, Ms. Romero Miranda has no significant criminal history, has been residing in the United States safely for more than twenty eight years, has three United States citizen children she has been working to provide for. Thus, she has lengthy and substantial ties to the United States and is not a danger to his community. The Court should order her released immediately or else hold a custody hearing to consider the issue itself.

Enforcement Problems in Immigration Court Bond Hearings

39. A bond hearing by an immigration judge (IJ) is not the most appropriate or efficient use of this court's equitable authority. Recent actions by ICE attorneys and immigration judges during and after habeas court-ordered bond hearings have

necessitated enforcement proceedings across the country, creating significant extra work for the court and the parties while petitioners' unlawful detention continues.

40. In the last year, ICE has frequently appealed the IJ's grant of bond to the Board of Immigration Appeals (BIA) and invoked the "automatic stay" regulation, 8 C.F.R. § 1003.19(i)(2). This stay, which keeps the petitioner detained despite an IJ bond grant, was rarely invoked in prior years but has now become common. Dozens of habeas courts have ruled that the automatic stay violates due process and have had to order Respondents to allow a petitioner to post his bond. *See, e.g.*, *Otilio B.F. v. Andrews*, No. 1:25-cv-01398, 2025 WL 3152480, at *11 (E.D. Cal. Nov. 11, 2025) (finding the automatic stay likely violates due process); *M.P.L. v. Arteta*, No. 25-cv-5307, 2025 WL 3288354, at *7 (S.D.N.Y. Nov. 25, 2025) (same, noting that "at least 50 district court decisions across the United States in the last 6 months alone" have found that DHS's use of the automatic stay provision violates or likely violates due process, and collecting cases at n.6); *Guasco v. McShane*, No. 1:25-cv-1650, 2025 WL 3270201, at *2 (M.D. Pa. Nov. 24, 2025) (noting that other habeas courts have "assailed the Government's practice of acting both as the prosecution and the judge in making a unilateral and unreviewed decision as to detention") (internal citation omitted).

41. In other cases, ICE has applied onerous electronic GPS ankle monitors or other unnecessary conditions of release that neither the habeas court nor the immigration court ordered, requiring additional litigation. *See Diahn v. Lowe*, No. 1:24-cv-1936, 2026 WL 84576, at *5 (M.D. Pa. Jan. 12, 2026) (ordering ICE to remove ankle

monitor it had unilaterally imposed after IJ granted bond without further conditions); *Orellana Juarez v. Moniz*, 788 F. Supp. 3d 61, 70 (D. Mass. 2025) (same, finding this presented a "real constitutional risk" and defeated the purpose of neutral third-party review of custody); *Menjivar Sanchez v. Wofford*, No. 1:25-CV-01187, 2025 WL 3089712, at *9 (E.D. Cal. Nov. 5, 2025) (same, in preliminary injunction context); *N-N- v. McShane*, No. 25-cv-5494, 2025 WL 3143594, at *4 (E.D. Pa. Nov. 10, 2025) (finding ICE's imposition of an ankle monitor, check-ins, and travel restrictions, which the IJ did not order in setting bond, violated due process and the *Accardi* doctrine).

42. Still other cases have left habeas courts unclear whether Respondents intend to comply with the court's orders to hold a bond hearing at all. *See, e.g., Gomez Rodriguez v. Noem*, No. 2:25-cv-01115, 2025 WL 3771268, at *2 (M.D. Fla. Dec. 31, 2025) (noting that "[i]n other cases before this Court, the respondents have claimed they cannot direct the EOIR when to conduct a bond hearing," and ordering release if the government does not comply); *Khogiani v. Raycraft*, No. 25-cv-13744, 2025 WL 3753532, at *4 (E.D. Mich. Dec. 29, 2025) (noting the government's argument that given the "overwhelming caseload" in the immigration courts, it likely could not comply with an order to hold a bond hearing within five days, but re-setting a short deadline anyway given the petitioner's five months of unlawful detention); *Vargas v. Bondi*, No. 25-cv-1023, 2025 WL 3300446, at *5 (W.D. Tex. Nov. 12, 2025), *report and recommendation adopted*, No. 25-cv-1023, 2025 WL 3300141 (W.D. Tex. Nov.

26, 2025) (recommending immediate release, in part because respondents argued that "if this Court ordered a hearing, it would require the immigration judge to do that which, in light of BIA precedent, the judge would not believe he had any authority to do").

Strong Procedural Protections If the Court Orders an Immigration Court Hearing

43. As a final option, this court could grant an immigration court bond hearing that follows clear guidelines and keep jurisdiction over this case to until satisfied that an individualized, constitutionally adequate review was held. *See Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773, 2025 WL 2976923, at *10 (W.D. Tex. Oct. 21, 2025) (holding that the proper remedy given the due process concerns is a bond hearing where the government bears the burden of proof); *Gomez v. Olson*, No. 25-cv-15300, 2025 WL 3768242, at *6 (N.D. Ill. Dec. 31, 2025) (noting the "overwhelming consensus" that the burden in a court-order bond hearing should be placed on the government).

44. The court should order that in that hearing, DHS bears the burden of proof to justify continued detention by clear and convincing evidence, and DHS is barred from invoking the automatic stay regulation if the immigration judge grants bond. *See, e.g., O.F.C,* 2026 WL 74262, at *16 (to ensure due process, ordering DHS to justify detention by clear and convincing evidence, and enjoining DHS from invoking the automatic stay on a bond grant or arguing that the IJ lacked jurisdiction); *Lopez-Romero v. Lyons*, No. 2:25-cv-01113, 2026 WL 92873, at *7 (D.N.M. Jan. 13, 2026)

(to ensure due process, requiring the government justify detention by clear and convincing evidence, and that the immigration judge consider petitioner's ability to pay bond); *Perez-Regalado v. Feeley*, No. 2:25-cv-02409, 2026 WL 36112, at *6 (D. Nev. Jan. 6, 2026) (enjoining the government from invoking an automatic stay after a bond grant); *Rueda Torres*, 2025 WL 3168759, at *6 (same); *Garay v. Perry*, No. 1:25-CV-2215, 2025 WL 3540070, at *4 (E.D. Va. Dec. 10, 2025) (releasing petitioner immediately, ordering a bond hearing within 14 days, and enjoining the government from arguing the IJ lacks jurisdiction or from invoking the automatic stay).

CAUSES OF ACTION

Count I - Violation of the INA

45. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

46. Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a). Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to those who entered without authorization.

47. By denying Petitioner a bond hearing under § 1226(a) and asserting that she is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA.

48. 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 were processed by the Respondents under 1226(a) and now due only to a flawed change in interpretation, being again apprehended and now subjected to mandatory detention despite no actual change in law or their circumstances warranting such a change. Noncitizens such as Ms. Romero Miranda are properly detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

49. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention and violates the INA.

Count II- Violation of the Administrative Procedure Act

50. Ms. Romero Miranda realleges and incorporates by reference the allegations above.

51. The Administrative Procedure Act provides that courts "shall . . . hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

52. The Department of Homeland Security is now holding Ms. Romero Miranda without bond alleging that she is detained under 8 U.S.C. § 1225(b), based on flawed legal analysis, which is inherently arbitrary and capricious.

53. Ms. Romero Miranda's continued detention and the threat of removal has caused and continues to cause her irreparable harm.

Count III- Violation of Fifth Amendment Right to Substantive Due Process

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

55. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

56. Immigration detention is "civil, not criminal" and must be "nonpunitive in purpose and effect." *Id.* Accordingly detention is only permitted in order to serve two goals: "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." *Id.*

57. Subjecting Ms. Romero Miranda to unlawful detention violates her Fifth Amendment right to freedom from detention.

Count IV - Violation of Fifth Amendment Rights to Procedural Due Process

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

59. Under the Fifth Amendment to the United States Constitution, those threatened with the loss of liberty or property due to actions by the federal government are entitled to due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690 .

60. Ms. Romero Miranda has a fundamental interest in liberty and being free from official restraint.

61. The government's detention of Ms. Romero Miranda without a bond redetermination hearing to determine whether she is a flight risk or danger to others violates her right to due process.

RELIEF REQUESTED

62. WHEREFORE, Petitioner prays that this Court:

a. Assume jurisdiction over the matter;

b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

e. Enjoin Respondents from transferring the Petitioner outside the jurisdiction of the District of Kansas pending the resolution of this case;

f. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

g. Grant any further relief this Court deems just and proper.

Respectfully submitted this 16th day of March, 2026:

By: */s/* Jonathan Willmoth
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Counsel for the Petitioner

Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Jonathan Willmoth
Jonathan Willmoth

Mar. 16, 2026