UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

YARITZA DEL CARMEN PALACIOS OTERO)
)
Petitioner,
)
v.
)
JUAN BALTASAR, Aurora Detention Facility; **GEORGE VALDEZ,** Acting Director of Denver Field Office, U.S. Immigration and Customs Enforcement; **KRISTIN NOEM,** Secretary of the U.S. Department of Homeland Security; and **PAMELA J. BONDI**, Attorney General of the United States, in their official capacities,
)
Respondents.
)

Case No. _1:26-cv-1160_____

PETITION FOR WRIT OF HABEAS CORPUS

[redacted]

INTRODUCTION

1. Yaritza del Carmen Palacios is a citizen of Guatemala who has been present in the U.S. since December 4, 2022. She is married to a U.S. citizen, who has filed an I-130 Petition for Alien Relative ("I-130 petition") on her behalf. She was detained on December 4, 2022, by U.S. Border Patrol ("BP") agents, and released with parole on December 05, 2022. It appears that Petitioner was given a "credible fear interview" by a USCIS asylum officer and found to have a "positive credible fear." From December 05, 2022, until December 09, 2025, the Petitioner complied with all of the requirements of her release, including reporting into her ICE ERO officer. ICE did not file the Notice to Appear with the immigration court and did not initiate removal proceedings.

2. Petitioner attended an unscheduled appointment with ICE at the local ICE Field Office on December 09, 2025, to update her address. Instead of discussing her compliance with her

conditions of release and updating her address, Petitioner was detained by ICE officers and placed into a local immigration detention facility.

3. Petitioner has expressed her fear of being removed to Nicaragua, filed an asylum application and was awaiting an interview on her relief application when she was detained. Petitioner was served with a Notice to Appear ("NTA") by ICE, was charged as being removable under 8 U.S.C § 1182(a)(6)(A)(i) and has an upcoming master calendar hearing with a U.S. immigration judge.

4. Petitioner should be detained under 8 U.S.C. § 1226 and eligible for a bond hearing and for release on a bond that is reasonably calculated to ensure her attendance at all U.S. immigration court hearings. Despite this, Petitioner is not allowed to post bond or to request a bond hearing before a U.S. immigration judge.

5. Therefore, to vindicate Petitioner's statutory, constitutional, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus and order that Petitioner be immediately released from ICE custody. In the alternative, Respondents should be ordered to provide her with a fair bond hearing within five (5) court days.

6. Absent an order from this Court, Petitioner will remain detained in violation of her Constitutional due process rights.

JURISDICTION

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

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

9. Federal district courts have jurisdiction to hear *habeas corpus* claims brought by noncitizens challenging the lawfulness of their immigration detention. *See Demore v. Kim,* 538 U.S. 510, 516-17 (2003) (recognizing *habeas* jurisdiction over challenges to immigration detention); *Zadvydas v. Davis*, 533 U.S. 678 , 687-88 (2001). That jurisdiction extends to claims alleging that detention exceeds statutory authority, violates constitutional guarantees, or results from agency action that is arbitrary, capricious, or contrary to law.

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is proper because Petitioner is detained at an immigration detention facility in Aurora, Colorado, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

12. 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).

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

391, 400 (1963) (emphasis added).

PARTIES

14. Petitioner is a citizen of Nicaragua. Petitioner is currently detained at immigration detention facility in Aurora, Colorado. She is in the custody, and under the direct control, of Respondents and their agents.

15. Respondent Juan Baltasar is the warden of the above-identified immigration detention facility, and 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. Mr. Baltazar is a legal custodian of Petitioner.

16. Respondent George Valdez is sued in his official capacity as the Acting Director of the Denver, Colorado Field Office of U.S. Immigration and Customs Enforcement. Mr. Valdez is a legal custodian of Petitioner and has authority to release him.

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

18. Respondent Pamela J. Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the BIA. Attorney General Bondi is a legal custodian of Petitioner.

EXHAUSTION

19. Petitioner has exhausted all available administrative remedies, and no further administrative relief is available or required.

20. Petitioner affirmatively sought an individualized custody redetermination before the Immigration Court. The Immigration Judge denied the request solely on jurisdictional grounds, concluding that the court lacked authority to consider bond or conduct any custody review based on DHS's classification of Petitioner as subject to mandatory detention.

21. The failure to exhaust administrative remedies does not bar Petitioner's claim unless "Congress specifically mandates" exhaustion. *Miranda v. Garland*, 34 F. 4th 338, 351 (4th Cir. 2022) (1993) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)). Although the Court may impose exhaustion requirements as a prudential matter, it should not do so in this case because further administrative exhaustion would be futile.

22. Upon information and belief, immigration judges across the country are determining that noncitizens like Petitioner are detained under 8 U.S.C. § 1225(b)(2) and ineligible for bond in light of *Matter of Yajure Hurtado,* 29 I. & N. Dec. 216 (BIA 2025).

STATEMENT OF FACTS

23. Petitioner is a 28-year-old citizen of Nicaragua. Petitioner is married to a U.S. citizen and has expressed her fear, multiple times, to ICE officials, that she will be tortured and even killed upon her return to Nicaragua.

24. As noted above, Petitioner entered the U.S. in December of 2022 and was apprehended by U.S. Border Patrol agents.

25. Petitioner was released on the same day she was apprehended.

26. From December 5, 2022, until December 9, 2025, Petitioner complied with all conditions of her release. She was not accused of any violations of her order of release.

27. Petitioner's U.S. citizen husband filed a Form I-130 petition on her behalf, sponsoring her for lawful permanent residence in the U.S. This I-130 petition was filed with the U.S. Citizenship and Immigration Services.

28. On December 9, 2025, Petitioner appeared at the local ICE Enforcement and Removal office to update her current address. Petitioner was taken into immigration custody and transported to a local ICE contract detention facility, where she remains today.

29. Upon detention, ICE issued a superseding NTA, dated December 9, 2025. This superseding NTA did not check the boxes at the bottom of the document indicating that the case was brought in immigration court as part of a. transfer under 235(b)(1).

30. Petitioner had a bond hearing on March 13, 2026, which was ultimately denied by the Immigration Judge pursuant to a "mandatory detention" provision of the law and that she cannot be released on bond.

31. Under U.S. statute and regulation, Petitioner has the ability to request a fair bond hearing before a U.S. immigration judge. Petitioner, who has been in the United States for three years with pending removal proceedings before an immigration judge under 8 U.S.C. § 1229a, is not subject to detention as an applicant for admission who is currently seeking admission and an inspecting immigration officer determined she is ineligible for admission.

LEGAL FRAMEWORK

32. The Immigration and Nationality Act sets forth separate procedures for the removal and detention of arriving or recently arrived noncitizens and those who have entered and established a presence in the United States, even those who have done so in violation of

the immigration laws. *Compare* 8 U.SC. § 1225 ("Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing"), *with* 8 U.S.C §§ 1226 ("Apprehension and detention of aliens"), 1229a ("Removal proceedings"). For those individuals with an established presence in the United States, the INA mandates that "an immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of a [noncitizen]." 8 U.S.C. § 1229(a)(1). Removal proceedings under 8 U.S.C. § 1229(a)(1) "shall be the sole and exclusive procedure from the United States" unless otherwise specified in the INA. 8 U.S.C. § 1229(a)(3).

33. First, 8 U.S.C. § 1225(b)(2)(A) provides that, "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title."

34. Second, 8 U.S.C. § 1226(a), provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States…[p]ending such a decision, the Attorney General…(1) may continue to detain the arrested alien; and (2) may release the alien on…(A)bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole."

35. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226], is the applicable

immigration detention authority for all applicants for admission." *See* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authorityfor-applications-for-admission (last accessed August 4, 2025)

36. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025), holding that, based on the plain language of 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to noncitizens who are present in the United States without admission.

37. The Immigration and Nationality Act (INA) establishes various procedures through which individuals present in the United States may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).

38. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. § 1229a.

39. Immigration detention is a form of civil confinement that "constitutes a significant depravation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

40. Custody determination for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadyvdas v. Davis,* 533 U.S. 678, 690 (2001); *Matter of Guerra,* 24 I&N Dec. 37 (BIA 2006).

41. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for

detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

42. Noncitizens are placed in expedited, and not 240 proceedings, "only if they are inadmissible on the basis that they either lack proper entry documents or falsified or misrepresented their application for admission." *Coal. for Humane Immigrants Rts v. Noem, No.* 25-CV-872 (JMC), 2025 WL 2192986 (D.D.C. 2025) at *5 (citing 8 U.S.C. § 1225(b)(1)(A)(i)). The court held that § 1225(b)(1)(A)(iii) "forbids the expedited removal of noncitizens who have been, at any point in time, paroled into the United States. *Id.* at *22.

43. This Court has analyzed on various occasions whether § 1225 or § 1226 apply to petitioners detained when already present in the United States without inspection and who are in removal proceedings. *See Hernandez-Redondo v. Bondi*, No. 25-cv-03993-PAB, 2026 WL 290989 at *2 (D. Colo. Feb. 4, 2026); *Armenta v. Noem*, No. 26-cv-00236-PAB, 2026 WL 274634 at *1-5 (D. Colo. Feb. 3, 2026); *Portillo Martinez v. Baltazar*, No. 26-cv-00106-PAB, 2026 WL 89613, at *2-4 (D. Colo. Jan. 13, 2026); *Alfaro Orellana v. Noem*, No. 25-cv-03976-PAB, 2025 WL 3706417, at *2-4 (D. Colo. Dec. 22, 2025). In each case, the Court has found that the petitioner's detention was governed by § 1226. *Id.*

CLAIMS FOR RELIEF

COUNT ONE
UNLAWFUL DETENTION IN VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT ("INA") AND IMPLEMENTING REGULATIONS

44. Petitioner incorporates paragraphs 1 to 34 herein by reference.

45. The Immigration and Nationality Act authorizes immigration detention only to the extent it serves a legitimate, non-punitive statutory purposes— namely, to ensure an individual's appearance at future proceedings or to protect public safety. Detention that does not advance those purposes, or that becomes arbitrary and indefinite, exceeds the government's statutory authority. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Clark v. Martinez,* 543 U.S. 371, 381 (2005).

46. DHS has not conducted any individualized assessment of whether Petitioner's continued detention is necessary to ensure appearance or protect public safety, nor has it articulated any reasoned basis for rejecting less restrictive alternatives to detention. The categorical reliance on *Yajure Hurtado* as a blanket bar to custody review effectively transforms a civil detention scheme into one of indefinite confinement without statutory justification.

47. Detention under these circumstances exceeds the detention authority Congress conferred in the INA and contravenes the statute's non-punitive design, its implementing regulations, and controlling Supreme Court precedent limiting civil immigration detention to what is reasonably necessary to achieve its lawful purposes.

48. Accordingly, Petitioner's continued detention is unlawful under the Immigration and Nationality Act and its implementing regulations. Petitioner respectfully requests that this Court grant habeas relief by ordering his immediate release, or, in the alternative, ordering Respondents to provide a prompt, lawful, and meaningful individualized custody determination consistent with the INA and governing law.

COUNT TWO
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

49. Petitioner incorporates paragraphs 1 to 34 herein by reference.

50. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Noncitizens physically present in the United States—including those who entered without inspection—are "persons" within the meaning of the Fifth Amendment and entitled to full procedural due process protections. *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982).

51. Petitioner has no criminal convictions and no record of violence, and no pending criminal charges, and has never exhibited conduct suggesting danger to the community or risk of flight, and has consistently cooperated with immigration authorities since his apprehension.

52. On March 13, 2026, Petitioner sought a custody determination before an Immigration judge. Through counsel, she requested an individualized custody determination and proffered evidence establishing that she poses no danger to the community, has community ties and a stable place to reside, and is fully willing to comply with all immigration court requirements.

53. The Immigration judge denied bond on March 13, 2026, solely on jurisdictional grounds, relying on *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025). The Immigration Judge concluded that he lacked authority to conduct any individualized custody assessment and therefore declined to consider Petitioner's eligibility for release.

54. As a result, Petitioner has been categorically barred from receiving any hearing before a neutral adjudicator to determine whether her detention is justified. She has been denied the opportunity to present evidence, contest the government's assertions, or obtain a meaningful review of her custody.

55. Immigration detention implicates a fundamental liberty interest. While Congress may authorize civil detention in the immigration context, such detention must remain

reasonably related to its non-punitive purposes—ensuring appearance at proceedings and protecting public safety—and must comport with basic procedural due process. *Zadvydas,* 533 U.S. at 690

56. The Supreme Court has made clear that the absence of a statutory right to a bond hearing does not foreclose as-applied constitutional challenges to immigration detention. In *Jennings v. Rodriguez,* 583 U.S. 281 (2018), the Court rejected a statutory bond-hearing requirement but expressly remanded for consideration of constitutional due process claims. *Id.* at 302–03.

57. The constitutional infirmity here is not merely the length of detention but the complete absence of any meaningful custody process. Petitioner is detained pursuant to a regime in which:

A. No immigration judge may conduct a bond hearing;

B. DHS is not required to justify continued detention with evidence; and

C. No neutral decisionmaker is empowered to order release, regardless of the Petitioner's lack of danger or flight risk.

58. Because the Immigration Judge has disclaimed jurisdiction and DHS has provided no alternative constitutionally adequate custody process, habeas corpus is the only effective mechanism by which Petitioner may test the legality of his confinement. Continued detention under these circumstances offends the core protections of the Due Process Clause.

59. To be released on conditional parole, there must be a finding that the immigrant does not pose a risk of flight or danger to the community. DHS has not alleged any change in

circumstance, or any violations of the conditions of her release, therefore Petitioner should be ordered released immediately.

COUNT THREE

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT- ARBITRARY AND CAPRICIOUS AGENCY ACTION
5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority
Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

60. Petitioner incorporates paragraphs 1 to 34 herein by reference.

61. The Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2), requires courts to "hold unlawful and set aside" agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. An agency acts arbitrarily and capriciously when it fails to examine relevant factors, ignores important aspects of the problem, departs from settled practice without reasoned explanation, or treats discretion as categorically unavailable when Congress has not so provided. *Judulang. v. Holder,* 565 U.S. 42, 53-55 (2011).

62. The Department of Homeland Security has acted arbitrarily and capriciously by continuing to detain Petitioner without any individualized custody assessment or reasoned explanation. Petitioner has no criminal convictions, has no pending criminal charges, has not engaged in violence or dangerous behavior, and has consistently cooperated with immigration authorities since and prior to her transfer into ICE custody.

63. Despite these facts, DHS has maintained Petitioner's detention for an extended and potentially indefinite period without providing any reasoned explanation or evidence that continued confinement serves a legitimate statutory purpose. DHS has failed to articulate why release under supervision, bond, or other alternatives would be insufficient.

64. DHS's reliance on *Matter of Yajure Hurtado* to justify continued detention is arbitrary and contrary to law. *Yajure Hurtado* addresses the jurisdiction of Immigration Judges to conduct bond hearings. It does not compel DHS to detain noncitizens indefinitely, nor does it eliminate DHS's longstanding discretionary authority to release noncitizens on parole, recognizance, supervision, or bond.

65. By treating *Yajure Hurtado* as an absolute bar to any form of individualized custody consideration, DHS has unlawfully transformed a discretionary detention framework into a blanket detention rule, substitution categorical inaction for the case-by-case decision-making required by the INA and APA.

66. DHS has also failed to provide a reasoned explanation for its abrupt departure from decades of settled administrative practice (1997-2025), during which noncitizens in Petitioner's posture routinely received individualized custody determinations and were considered for release under supervision or bond. Such an unexplained reversal of course is arbitrary and capricious under the APA. *Judulang,* 565 U.S. at 55.

67. DHS's actions are arbitrary, capricious, an abuse of discretion, and not in accordance with law within the. Meaning of 5 U.S.C. § 706(2)(A). The agency has effectively nullified its own discretionary authority through categorical non-exercise, which the APA prohibits.

68. Habeas relief is warranted to remedy this unlawful agency conduct. Petitioner respectfully requests that this Court order her immediate release, or in the alternative, direct DHS to conduct a prompt, individualized, and reasoned custody determination consistent with the Administrative Procedure Act, the Immigration and Nationality Act, and governing constitutional principles.

PRAYER FOR RELIEF

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

(2) Assume jurisdiction over this matter;

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

(4) Declare that the Respondents challenged actions violate the Due Process Clause of the Fifth Amendment;

(5) Declare that the Respondent's challenged actions violate the Immigration and Nationality Act;

(6) Issue a Writ of Habeas Corpus ordering Respondents to release respondent immediately, without any conditions imposed by ICE on her release, or in the alternative, direct DHS to conduct a prompt individualized, and reasoned custody determination at which DHS bears the burden of proof;

(7) Direct Respondents to return all personal property that was taken when Petitioner was detained;

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

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

(10) Respectfully submitted,



Cristina Uribe Reyes Law, Esq.
Uribe Reyes Law LLC.
333 W Hampden Ave, Suite 415
Englewood, CO 80110.
(303)317-5516
cristina@ureyeslaw.com

Counsel for Petitioner

Dated: March 19, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

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

Dated this 19 day of March, 2026.



Cristina Uribe Reyes Law, Esq.