UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

NAIMA RAMIREZ ANDREU,

Petitioner,

v.

JUAN BALTAZAR, Warden, Denver Contract Detention Facility; ROBERT HAGAN, Field Office Director, Denver Field Office, United States Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement, MARKWAYNE MULLIN, Secretary of Homeland Security; PAMELA JO BONDI, United States Attorney General, *in their official capacities*,

Respondents.

Civil Action No.: TBD

PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

1. Since at least the passage of the Immigration and Nationality Act (INA) of 1952, noncitizens who entered the country illegally could generally be released on bond while their removal proceedings were pending. Yet earlier last year, U.S. Immigration and Customs Enforcement (ICE) "revisited" its position and determined that all noncitizens who are present without admission are subject to mandatory detention while in removal

proceedings. The Board of Immigration Appeals (BIA) recently reached the same conclusion in a precedential decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding for the first time that all noncitizens who entered the country without admission are categorically ineligible for bond regardless of how long they have lived in the United States.

2. Federal judges have issued over three hundred decisions finding the government's novel interpretation incompatible with the INA. The provision on which the government relies states that noncitizens who are "seeking admission" are subject to mandatory detention while in removal proceedings. 8 U.S.C. § 1225(b)(2)(A). Congress defined "admission" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). Thus, by its plain terms, the provision only applies to noncitizens who present themselves at a port of entry. And in addition to disregarding the plain text of § 1225(b)(2)(A), the government's contrary interpretation renders superfluous other provisions of the INA that require the mandatory detention of noncitizens who have engaged in criminal activity—including a provision, § 1226(c)(1)(E), enacted this year in the Laken Riley Act.[1]
3. This Court has considered, and rejected, the government's contention that noncitizens "who were detained when already present in the United States without inspection and

[1] The government may erroneously assert that Petitioner is detained pursuant to the authority in 8 U.S.C. § 1226(c)(1)(E), because she was transferred to the detention facility following an arrest stemming from a domestic violence incident. However, those charges have been dismissed, and therefore, even assuming she had previously been detained under that authority, she is now detained pursuant to 8 U.S.C. § 1226(a), and merits a bond hearing.

who face removal proceedings due to their entrance without inspection is government by 8 U.S.C. § 1226[,]" not 8 U.S.C. § 1225(b)(2)(A). *Martinez v. Baltazar, et al.,* 2026 WL 194163 at *2 (D.Co. Jan. 26, 2026); *see also Hernandez Murillo v. Baltazar, et al.,* 2026 WL 66925 (D.Co. Mar. 9, 2026); *Garrido v. Baltasar, et al.,* 2026 WL 638362 at *3 (D.Co. Mar. 6, 2026).

4. The government's argument also flouts the Justice Department's own regulations. Since 1997, the Justice Department has precluded immigration judges from granting bond to so-called "arriving aliens"—*i.e.*, those who seek admission at a port of entry—but not to those who entered the country without inspection. This distinction was the result of a deliberate choice made by the Attorney General following the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, Div. C, 110 Stat. 3009-546. And under bedrock principles of administrative law, agencies cannot "overrule" by adjudication regulations that were promulgated after notice and comment. *Patel v. INS*, 638 F.2d 1199, 1202 (9th Cir. 1980).
5. As a result of the government's new interpretation, every noncitizen who entered the country without being admitted is subject to mandatory detention for the duration of their removal proceedings. One such noncitizen is
6. Importantly, however, the Central District of California has both issued a nationwide injunction on reliance on *Yajure-Hurtado's* legal analysis to deny bond; and recently vacated the Board's decision in *Matter of Yajure-Hurtato. Maldonado Bautista v. Santacruz,* No. 25-cv-01873-SSS-BFM, 2026 WL 468284 at *9 (C.D. Cal. Feb. 18, 2026) ("Respondents engage in unlawful practices under the guise of 'immigration

enforcement' and fidelity to agency regulations. Those practices were found unlawful by way of statutory interpretation by this Court.").

7. Petitioner challenges her detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.

8. Petitioner respectfully requests that this Court grant a Writ of Habeas Corpus and order Respondents to release her from custody. Petitioner seeks habeas relief under 28 U.S.C. 2241, which is the proper vehicle for challenging civil immigration detention. *See Soberanes v. Comfort,* 388 F.3d 1305, 1310 (10th Cir. 2004) ("Challenges to immigration detention are properly brought directly through habeas") (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001)).

CUSTODY

9. Petitioner is in the physical custody of Respondents. Petitioner is imprisoned at the Denver Contract Detention Facility run by Geo Group, an immigration detention facility, in Aurora, Colorado. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

10. This Court has jurisdiction to entertain this habeas petition under 28 U.S.C. 1331; 28 U.S.C. 2241; the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I, § 2.

VENUE

11. Venue is proper in this District under 28 U.S.C. 1391 and 28 U.S.C. 2242 because at least one Respondent is in this District, Petitioner is detained in this District, Petitioner's

immediate physical custodian is located in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) ("the proper respondent to a habeas petition is 'the person who has custody over the petitioner'") (citing 28 U.S.C. 2242) (cleaned up).

PARTIES

12. Petitioner is currently detained by Respondents at the Denver Contract Detention Facility, an immigration detention facility run by Geo Group. Petitioner has been in ICE custody since on or about December 11, 2025, when she was transferred to ICE custody following a domestic dispute.

13. Respondent Juan Baltazar is the Warden of the Denver Contract Detention Facility, where Petitioner is currently detained. He is a legal custodian of Petitioner and is named in his official capacity.

14. Respondent Robert Hagan is the Field Office Director responsible for the Denver Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Petitioner and is named in his official capacity.

15. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

16. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.

17. Respondent Pamela Jo Bondi is the Attorney General of the United States Department

of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

STATEMENT OF FACTS

18. Naima Ramirez Ramirez Andreu, a native and citizen of Cuba, who on August 4, 2024, who presented herself to be processed via the now-defunct CBPOne app. Ex. A (I-213). At that time, CBP agents processed her parole into the United States pursuant to her Cuban Facilitation Document, issued her a Notice to Appear ("NTA") alleging she was inadmissible pursuant to 8 U.S.C. § 1182(a)(7)(A)(I), and paroled for two years into the United States. Ex. A at 2-3; *see also* Ex. B (NTA).

19. On December 11, 2025, Ms. Andreu was arrested following a domestic dispute. Ex. A at 2. Ms. Andreu was attacked by her then-partner, but when she called the police for help, she found herself arrested for domestic violence instead; despite the fact that she was defending herself from attempted rape. Ex. C (Ms. Andreu's sworn statement). Ms. Andreu was then transferred to DHS custody, and detained without being afforded a pre-deprivation hearing. She has not had a bond hearing since. However, her criminal charges have been dismissed, and the files sealed. Ex. D.

20. Whilst in detention, Ms. Andreu is finding it difficult to manage her epilepsy, high blood pressure, diabetes, and asthma. Ex. C, ¶¶ 3-6. Ms. Andreu is forced to take Carbamazepine at five hour intervals, rather than the every eight hours she is accustomed to. *Id.* This frequency and dosage results in her feeling "drugged[,]" "hazy" and unable to "think clearly."[2] *Id.* Ms. Andreu developed a toe infection that

[2] Concurrently, Ms. Andreu's removal proceedings are ongoing. However, her counsel filed

was not treated until her "toe turned purple" and required antibiotics. Because Ms. Andreu has diabetes, infections in her feet and toes can cause serious health problems. *Id.* In addition to her physical health problems, Ms. Andreu also suffers from insomnia, anxiety, and depression as a result of the physical and sexual abuse she suffered at the hands of her ex-partner. *Id.*

LEGAL FRAMEWORK

I. Immigration and Nationality Act and Federal Regulations

21. The INA prescribes three basic forms of detention for the vast majority of noncitizens who are alleged or found to be removable from the United States.

22. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an 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 engaged in specified criminal and terrorist activity are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).[3]

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

24. Last, 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).

---

a motion to terminate proceedings because she is eligible for adjust her status due to the Cuban Adjustment Act. Ex. E.

[3] As discussed *supra,* the mandatory detention provision of 8 U.S.C. § 1226(c) does not apply to Ms. Andreu.

25. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

26. The detention provisions at § 1226(a) and § 1225(b)(2) 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 1225(b)(2)(A) states that if an "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 [removal proceedings]." The IIRIRA also defined "admission" in 8 U.S.C. § 1101(a)(13)(A) as the "lawful entry of the alien into the United States after inspection and authorization by an immigration officer." § 301, 110 Stat. 3009-575.

27. Consistent with these statutory provisions, federal regulations preclude immigration judges from granting bond to "arriving aliens," 8 C.F.R. § 1003.19(h)(1)(B)(ii), a phrase defined in relevant part as "applicant[s] for admission coming or attempting to come into the United States at a port-of-entry." 8 C.F.R. § 1001.1(q). The decision to preclude immigration judges from granting bond to arriving aliens—as distinct from all noncitizens who entered without admission—was the product of notice and comment rulemaking in early 1997 following the enactment of the IIRIRA.

28. As the regulations were initially proposed, all "[i]nadmissible aliens in removal proceedings" would have been ineligible for bond. *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal*, 62 Fed. Reg. 444, 483 (Jan. 3, 1997). After receiving comments, however, the Attorney General deleted the

proposed provision and replaced it with one that would apply only to "[a]rriving aliens."[4] *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10361 (March 6, 1997). As the Attorney General explained, "[t]he effect of this change [was] that inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge, while arriving aliens do not." *Id.* at 10323. In other words, "aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." *Id.*

29. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. 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); 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)).

30. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Congress provided that noncitizens who entered the country without being admitted are subject to mandatory detention if they were thereafter charged with, arrested for, convicted of, or admitted committing various offenses. 8

[4] This provision was originally promulgated as 8 C.F.R. § 236.1(c)(5)(i), and was later transferred to 8 C.F.R. § 1003.19(h)(2)(i)(B).

U.S.C. § 1226(c)(1)(E). As may be apparent, this provision would be superfluous if all noncitizens who were present without admission were already subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

I. Exhaustion and Futility

31. Exhaustion of administrative remedies is required "[w]here Congress specifically mandates." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). But where, as here "Congress has not clearly required exhaustion, sound judicial discretion governs." *Id.* (citations omitted). Under these principles, prudential exhaustion is not required where a request for relief before the agency would be futile because the agency has "predetermined the issue before it." *Id.* at 148. Further, "a court may waive the prudential exhaustion requirement if 'administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.'" *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

32. The BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, renders prudential exhaustion futile in bond cases involving individuals who entered the United States without inspection. *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025). *Matter of Yajure Hurtado* "predetermine[s]" the outcome of any bond hearing request made to the agency. *McCarthy*, 503 U.S. at 148. Prudential exhaustion is therefore unnecessary, and the Court should take jurisdiction over Petitioner's case.

A motion to reconsider has been filed in *Matter of Yajure Hurtado*. The motion challenges the Board's statutory analysis and asks it to withdraw its decision because (a) the

underlying removal proceedings had concluded by the time the Board issued its decision, making the case moot, and (b) the decision conflicts with longstanding regulations issued by the Attorney General.

33. Although presently enjoined, there is ample evidence and reporting that immigration judges are regularly flouting *habeas* rulings by denying bond based on "flight risk" rather than expressly denying based on *Matter of Yajure Hurtado.* Ex. F (Politico article). Here, requesting a bong hearing would be fruitless, as there are indications of blanket denials of bond hearings before immigration judges in Colorado.

I. Federal Court Decisions Regarding Detention of Individuals Who Are Present Without Admission

34. Federal judges have issued over 300 decisions finding the government's novel interpretation incompatible with the INA. These judges have not been unsparing in their criticism of the government's newfound position. One called it a "nonstarter." *Doe v. Moniz*, No. 25-12094, 2025 WL 2576819 at *10 (D. Mass. Sept. 5, 2025). Another called it "willfully blind." *Leal-Hernandez v. Noem*, No. 25-2428, 2025 WL 2430025 at *25 (D. Md. Aug. 24, 2025). Another called it "a policy argument, projected onto Congress." *Romero v. Hyde*, 795 F. Supp. 3d 271, 287 (D. Mass. 2025). And another noted that the government "could not identify any federal court that has adopted their novel reading of § 1225(b)(2)(A)." *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425 at *20 (E.D. Mich Sept. 9, 2025).

35. This Court, too, has soundly rejected the government's interpretation, albeit in unpublished cases. *Martinez v. Baltazar, et al.*, 2026 WL 194163 at *2 (D. Co. Jan. 26,

2026) (collecting cases); *see also Hernandez Murillo v. Baltazar, et al.*, 2026 WL 66925 (D. Co. Mar. 9, 2026); *Garrido v. Baltasar, et al.*, 2026 WL 638362 at *3 (D. Co. Mar. 6, 2026).

36. The district court in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873 (C.D. Cal. Nov. 20, 2025) (Sykes, J.), has granted nationwide class certification and summary judgment on this issue. Specifically, the court has declared illegal ICE's policy, and the BIA's decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), requiring detention without bond of all persons who entered without inspection or admission. Thus, class members nationwide now have a binding judgment declaring they are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), and are entitled to consideration for release on bond. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, 2025 U.S. Dist. LEXIS 231977, at *26 (C.D. Cal. Nov. 25, 2025) (extending the same declaratory relief granted to individual petitioners to the class as a whole).

37. The court there expressly extended the declaratory relief to the Bond Eligible Class, which is nationwide and encompasses:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Id. at *4.

38. Petitioner in this case is thus a class member and covered by the declaratory relief granted in *Maldonado Bautista.* Still, Petitioner's habeas action is necessary because the class-wide declaratory judgment in *Maldonado Bautista* does not provide coercive remedies

like a writ of habeas corpus ordering release or a bond hearing. 28 U.S.C. § 2201(a); *Steffel v. Thompson*, 415 U.S. 452, 471 (1974) (explaining that declaratory judgment "is not ultimately coercive; noncompliance with it may be inappropriate, but is not contempt.").

39. Indeed, on February 18, 2026, the Central District of California issued a second declaratory judgment vacating *Matter of Yajure-Hurtado,* and detailing the government's noncompliance with its nationwide injunction. –F.Supp.3d –, 2026 WL 468284 at *7 (The government "ha[s] far crossed the boundaries of judicial constitutional conduct. Somehow, even after the judicial declaration of law that the DHS was misguided in its act of legal interpretation that nullified portions of a congressionally enacted statute, Respondents still insist they can continue their campaign of illegal action. The shameless submission that is Respondents' Opposition deliberately seeks to erode any semblance of separation of powers.").

40. It is not difficult to understand why federal district courts have rejected the government's novel interpretation, as the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

41. By its terms, § 1225(b)(2)(A) only applies to noncitizens who are "seeking admission," and Congress defined "admission" as the "lawful entry of the alien into the United States after inspection and authorization by an immigration officer." § 1101(a)(13)(A). Accordingly, "[c]onstruing section 1225(b)(2) to apply to noncitizens already residing in the country would read the word 'entry' out of the definitions of 'admitted' and

'admission.'" *Chafla v. Scott*, No. 2:25-cv-00437-SDN, 2025 U.S. Dist. LEXIS 184909, at *19 (D. Me. Sep. 21, 2025).

42. Therefore, 8 U.S.C. § 1225(b) applies to people arriving at U.S. ports of entry. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States, and individuals who entered without inspection and have never affirmatively applied for admission or parole do not fit within that category. 8 U.S.C. § 1225(b)(2)(A); *see Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS 175767, at *19 (E.D. Mich. Sep. 9, 2025) (specifically rejecting the Board's analysis of the statute in *Matter of Yajure Hurtado* and concluding that it is "difficult to square a noncitizen's continued presence with "seeking admission" when that noncitizen never attempted to obtain lawful status"); *Vasquez-Garcia v. Noem*, No. 25-cv-02180-DMS-MMP, 2025 U.S. Dist. LEXIS 171714, at *18 (S.D. Cal. Sep. 3, 2025) (rejecting DHS' contention that an individual who entered the United States without inspection "is automatically understood to be 'seeking admission' within the meaning of § 1225(b)(2)(A), without need[ing] to affirmatively apply for admission or parole"); *see also Arrazola Gonzalez v. Noem*, No. 5:25-cv-01789, 2025 U.S. Dist. LEXIS 158808, at *6-7 (C.D. Cal. Aug. 15, 2025) (concluding that habeas petitioner showed likelihood of success on the merits of argument that "[t]o ignore the 'seeking admission' language [in 8 U.S.C. § 1225(b)(2)(A) . . . would render the language purposeless and violate a key rule of statutory construction").

43. Throughout its text, 8 U.S.C. § 1225 defines its scope by reference to "inspections"—a term not defined in the INA, but which typically connotes an examination upon or soon

after physical entry. *See* 8 U.S.C. § 1225 (titled "Inspection by immigration officers; expedited removal of inadmissible arriving [noncitizens]; referral for hearing"); §§ 1225(b)(1)–(2) (referring to "inspections" in their titles); § 1225(d)(1) (authorizing immigration officials to search certain conveyances to conduct "inspections" where noncitizens "are being brought into the United States"). Many statutory provisions, various regulations and agency precedent discuss "inspection" in the context of admission processes at ports of entry, further supporting the conclusion that § 1225(b) has a limited temporal and geographic scope. *See, e.g.*, 8 U.S.C. §§ 1187(h)(2)(B)(i), 1225A; 8 U.S.C. § 1752a; 8 C.F.R. § 235.1; *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010)).

44. Indeed, the Supreme Court has explained that this mandatory detention scheme applies to noncitizens who are "arriving in the United States," *Clark v. Martinez*, 543 U.S. 371, 373 (2005), "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

45. As importantly, 8 U.S.C. § 1226(c) subjects numerous categories of inadmissible noncitizens to mandatory detention. If "the [BIA was] correct that [8 U.S.C.] § 1225(b)'s mandatory detention provisions apply to all persons who have not been admitted into the United States, that would render superfluous those provisions of § 1226 that apply to certain categories of inadmissible aliens, such as § 1226(c)(1)(A), (D), and (E)." *Hasan v. Crawford,* 800 F. Supp. 3d 641, 656 (E.D. Va. Sept. 19, 2025) (Brinkema, J.). Indeed, the BIA's interpretation would "render the Laken Riley Act a meaningless amendment,

since it would have prescribed mandatory detention for noncitizens already subject to it." *Aceros v. Kaiser*, 2025 WL 2637503 at *28 (N.D. Cal. Sept. 12, 2025).

46. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who had already entered the United States at the time they were apprehended. Rather, 8 U.S.C. § 1226(a) governs Petitioner's detention while a decision on her removal is pending. *See, e.g., De La Cruz v. Baltazar,* 2026 WL 439217 at *2 (D. Co. Feb. 17, 2026) ("On six occasions, this Court has analyzed whether [8 U.S.C.] § 1225 or § 1226 applies to petitioners who were detained when already present in the United States and who face removal proceedings. … Each time, the Court has ruled that the petitioner's detention is governed by [8 U.S.C.] § 1226." (internal citations omitted); *see also Melton Morales Ruiz v. Warden,* 2026 WL 579326 at *4 (D.NM. March 2, 2026) ("The Court's interpretation of [8 U.S.C.] § 1225(b)(2)(A) is consistent with the decisions of multiple courts, which have found that a person who has been present in the United States is not "seeking admission" and therefore not subject to mandatory detention under § 1225(b)(2)(A).") (collecting cases).[5]

[5] Even assuming, *arguendo,* Ms. Andreu is detained under 8 U.S.C. § 1225(b), she was still entitled to a pre-deprivation or bond hearing before being detained. *Ekenge v. Baltazar,* 2026 WL 617341 at *3 (D. Co. Mar. 5, 2026) ("'Even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody.'") (*quoting Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. July 24, 2025) (collecting cases); *see Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1137 (W.D. Wash. 2025) (same); *Pineda-Berrios v. Lyons*, No. 25-cv-2332-LMB-LRV, 2026 WL 384159, at *6 (E.D. Va. Feb. 11, 2026) (same); *Rojas v. Almodovar*, No. 25-cv-7189-LJL, 2025 WL 3034183, at *6 (S.D.N.Y. Oct. 30, 2025) (citing *Pinchi* and noting that "a liberty interest, once granted, cannot be revoked without due process" in finding that the due process rights of a petitioner

II. MS. ANDREU'S DUE PROCESS RIGHTS WERE VIOLATED BECAUSE SHE WAS NOT PROVIDED A PRE-DEPRIVATION HEARING

47. Moreover, because Petitioner was paroled into the United States, she was entitled to a pre-deprivation bond hearing. *Ekenge,* 2026 WL 617341 at *4 ("And the court also notes that '[w]hile Respondents are correct that non-citizens' liberty interests are not equivalent to those enjoyed by citizens...that does not negate Petitioner's liberty interest in not being detained.') (quoting *Kumar v. Wamsley*, No. 25-cv-1772, 2025 WL 2677089, at *3 (W.D. Wash. 2025). "Indeed, as alluded to above, in highly similar circumstances, other federal courts have held that 'due process clearly requires that Petitioner be given a hearing before his bond is revoked.'" *Id.* (*quoting Doe v. Becerra*, 787 F. Supp. 3d 1083, 1090 (E.D. Cal. 2025) (*citing Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017)); *see, e.g., Osorio Molina v. Hermosillo*, No. 26-cv-95-RAJ, 2026 WL 381161, at *1 (W.D. Wash. Feb. 11, 2026) (releasing a petitioner who had his OREC revoked because he allegedly violated his reporting conditions by failing to report since his release where the petitioner was not provided with sufficient procedural due process).

---

who had had his parole status revoked were violated); *Savane v. Francis*, 801 F. Supp. 3d 483, 494 (S.D.N.Y. 2025) ("Other courts confronting the question of what process is required to revoke parole once granted, even when that revocation is discretionary, have held that a noncitizen has a significant liberty interest in remaining out of custody once parole is granted.") (collecting cases); *Trejo v. Warden of ERO El Paso E. Montana*, 807 F. Supp. 3d 697, 709-10 (W.D. Tex. 2025) (finding that a prisoner released under an order of supervision possessed "a cognizable interest in his continued freedom from detention" and noting that in accordance with the longstanding principle in the criminal context that due process requires a pre-deprivation hearing before the revocation of parole, 1225(b) parolees acquire a protectable liberty interest in remaining out of custody on bond) (collecting cases).

48. When assessing an alleged procedural due process violation, this Court applies the *Mathews v. Eldridge* test. *Ekenge,* 2026 WL 617341 at *4-5 (citing 424 U.S. 319, 335 (1976)). "Pursuant to *Mathews,* courts weigh the following three factors in evaluating due process claims: (1) 'the private interest that will be affected by the official action'; (2)'the risk of 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.'" *Id.* at *5 (quoting *Mathews,* 424 U.S. at 335)).

49. Ms. Andreu has a significant private liberty interest in being free from detention. *Ekenge,* at *5; *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *Vizguerra-Ramirez v. Baltazar*, No. 25-cv-00881-NYW, 2025 WL 3653158, at *13 (D. Co. Dec. 17, 2025) (same); *see also Hamdi,* 542 U.S. at 529 (directing courts, when assessing the first *Mathews* factor, to consider only the petitioner's interests at stake in ongoing detention without consideration of the respondents' justifications for the detention); *Zadvydas*, 533 U.S. at 690 (stating that an individual's interest in being free from detention "lies at the heart of the liberty that [the Due Process] Clause protects").

50. Here, Ms. Andreu remains at an ICE detention facility far removed from her friends and family. She has diabetes, epilepsy, high blood pressure, and other ailments; yet there have been issues obtaining the proper medication for her conditions. Ex. C. Significantly, detention center officials failed to timely treat an injury to her toe that later became infected and required antibiotics. Ex. C ¶¶7. As Ms. Andreu states, due to her diabetes,

infected injuries of this nature are higher risk of permanent injury. *Id.* Every day she remains unlawfully detained compounds the trauma she already experienced as a domestic violence victim who was wrongfully arrested when she called the police for protection from her abuser. Ex. C. ¶8.

51. Second, the risk of erroneous deprivation of Ms. Andreu's liberty is "considerable[.]" *Ekenge,* 2026 WL 617341 *5 ("[Considering that petitioner 'was previously found to not be a danger or a flight risk, the risk of erroneous deprivation; is particularly high if, as is the case now, no hearing has been provided.") (*quoting Arzate v. Andrews,* No. 25-cv-00942-KES-SKO, 2025 WL 2230521, at *5 (E.D. Cal. Aug. 4, 2025); *see also, e.g., Orellana v. Noem,* 807 F. Supp. 3d 745, 754 (W.D. Ky. 2025) ("A re-detention, without any individualized assessment, leads to a high risk of erroneous deprivation of an individual's liberty interest."). Although Respondents may assert that Ms. Andreu's arrest constituted a valid reason to detain Ms. Andreu, that "'does not eliminate [the government's] obligation to effectuate the detention in a manner that comports with due process[,]'" *i.e.,* a pre-deprivation hearing before a neutral arbiter. *Id.* (*quoting E.A. T.B. v. Wamsley,* 795 F.Supp.3d 1316, 1322 (W.D. Wash. 2025)). Instead, Ms. Andreu has been detained without a bond hearing since December 11, 2025. Moreover, any criminal charges from that arrest have been dismissed and the records sealed. Ex. D.

52. Finally, any governmental interest in detaining Ms. Andreu without a hearing is "not substantial" whereas the public interest favors Ms. Andreu because "[u]necessary detention 'imposes substantial societal costs,' as it 'separates families and removes from the community breadwinners, caregivers, parents, siblings, and employees.'" *Ekenge,*

2026 WL 617341 at *5 (quoting *Hernandez-Lara v. Lyons,* 10 F.4th 19, 33 (1st Cir. 2021) (internal citations omitted)).

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

53. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

54. The mandatory detention provision at 8 U.S.C. § 1225(b)(2)(A) does not apply to all noncitizens residing in the United States who entered the country without being admitted. By its terms, § 1225(b)(2)(A) only applies to noncitizens who are "seeking admission." The term "admission" is defined to require a "lawful entry" following "inspection and authorization by an immigration officer." § 1101(a)(13)(A). Accordingly, § 1225(b)(2)(A) does not apply to noncitizens like Petitioner who were not inspected or admitted and are later apprehended outside a port of entry. Such noncitizens are instead detained under § 1226 while in removal proceedings, and are thus eligible for release on bond under § 1226(a) unless they are subject to mandatory detention under § 1226(c).

55. The application of § 1225(b)(2)(A) to Petitioner unlawfully mandates her continued detention without a bond hearing and violates the INA.

COUNT II
Violation of Federal Regulations and the APA

56. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

57. Under 8 C.F.R. § 1236.1(d)(1), immigration judges may grant bond to any noncitizen in removal proceedings who is not subject to a final order or to any of the exceptions in 8 C.F.R. § 1003.19. None of the exceptions in § 1003.19 preclude immigration judges from granting bond to noncitizens simply for being present without admission.

58. As relevant here, the regulations only preclude immigration judges from granting bond to noncitizens who qualify as "arriving aliens," § 1003.19(h)(1)(B)(ii), *i.e.*, those who presented themselves for inspection at a port of entry. When these regulations were initially promulgated, the Justice Department explained that "inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge." 62 Fed. Reg. 10312, 10323 (March 6, 1997). The Justice Department thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before Immigration Judges (IJs) under 8 U.S.C. 1226 and its implementing regulations.

59. Notwithstanding these regulations, the BIA held in *Matter of Yajure Hurtado* that all noncitizens who are present without admission are ineligible to receive a bond from IJs. Application of this decision to Petitioner unlawfully mandates his continued detention without a bond hearing in violation of §§ 1236.1 and 1003.19.

60. Furthermore, *Matter of Yajure Hurtado* has been vacated in federal court and found to be unlawful. That decision applies nationwide. Respondents, therefore, cannot rely on *Yajure-Hurtado* to hold Petitioner indefinitely during the pendency of his removal proceedings. *Maldonado Bautista v. Santacruz,* No. 25-cv-01873-SSS-BFM, 2026 WL 468284 at *12 (C.D. Cal. Feb. 18, 2026) ("the Court hereby VACATES *Matter of Yajure-Hurtado* as contrary to law under the APA.").

COUNT III
Violation of Due Process

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

62. The government may not deprive a person of life, liberty, or property without 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 v. Davis*, 533 U.S. 678, 690 (2001).

63. Petitioner has a fundamental interest in liberty and being free from official restraint.

64. The government's detention of Petitioner without a pre-deprivation hearing violates her right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
3. Declare that Petitioner's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. § 1254a;
4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
6. Enjoin Respondents from further detaining Petitioner without a pre-deprivation bond hearing before a neutral arbiter;
7. 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
8. Grant such further relief as this Court deems just and proper.

Dated: March 26, 2026

Respectfully submitted,
s/Dana M. Camilleri
Dana M. Camilleri, Esq.
COUNSEL FOR PETITIONER