UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JEANETT JOSEFINA RANGEL JAIMEZ, Petitioner, v. WARDEN of Stewart Detention Center; KRISTIN SULLIVAN, Acting Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO") Field Office, Atlanta; MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS"); and TODD BLANCHE, Acting Attorney General of the United States, in their official capacities, Respondents.	Case No. 4:26-cv-605 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Jeanette Josefina Rangel Jaimez, a citizen of Venezuela, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge the legality of her detention by Immigration and Customs Enforcement ("ICE"), a component of the U.S. Department of Homeland Security

("DHS"). She is currently detained at the Stewart Detention Center in Lumpkin, Georgia, where she has been held unlawfully since November 25, 2025.

2. Petitioner faces unlawful detention because the DHS and Executive Office of Immigration Review ("EOIR") have concluded Petitioner is subject to mandatory detention based on a recently released ICE memo directing a new interpretation of the law. (*See* Ex. 1, ICE Memo "Interim Guidance Regarding Detention Authority for Applicants for Admission" dated July 8, 2025 (hereinafter "ICE Memo")).

3. Petitioner's detention on the above basis violates the plain language of the Immigration and Nationality Act ("INA"). Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond.

4. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

5. Notably, the vast majority of federal courts to consider this issue, including this Court, have agreed. *See, e.g.*, *Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (granting habeas relief and ordering a bond hearing for similar petitioners who never received bond hearing because of

Matter of Yajure Hurtado, 29 I&N Dec. 216, 228–29 (BIA 2025)); *J.A.M. v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) (finding petitioners' detention governed by 8 U.S.C. § 1226(a)); *P.R.S. v. Streeval*, No. 4:25-cv-343, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025) (same).

6. This Court has recently concluded that a noncitizen who is already present in the United States, not at its port of entry seeking admission, is subject to discretionary detention with a right to a bond hearing under 8 U.S.C. § 1226(a) unless a statutory exception applies under 8 U.S.C. § 1226(c). *J.A.M.*, 2025 WL 3050094, at *3; *see also P.R.S.*, 2025 WL 3269947, at *1–*2. In such cases, it determined that mandatory detention under 8 U.S.C. § 1225(b)(2) is "not authorized." *P.R.S.*, 2025 WL 3269947, at *2.

7. Despite this Court's recent rulings rejecting the Respondents' position that section 1225(b)(2)(A) applies to individuals such as Petitioner, Respondents continue to maintain that noncitizens who entered the United States without inspection are not eligible for bond redetermination hearings, because they are applicants for admission within the meaning of 8 U.S.C. § 1225(b)(2)(A).

8. Petitioner seeks an order from this Court requiring immediate release, or in the alternative a bond hearing with extra safeguards, because ordering a bond hearing alone will not reliably remedy Petitioner's unlawful detention. Experience in recent cases demonstrates that, absent clear guidance or safeguards, bond

determinations may fail to meaningfully engage with individualized assessments of flight risk or danger.[1]

9. As such, Petitioner seeks a writ of habeas corpus requiring that she be released immediately, or in the alternative, ensuring Respondents conduct a *constitutionally sufficient* bond hearing within seven (7) business days and subsequently file with this Court a status report.

10. To the extent this Court orders a bond hearing rather than release, Petitioner seeks that this Court's order include the following safeguards:

> (1) Make explicit that Respondents bear the burden to show flight risk or danger to society. *See, e.g., J.G. v. Warden, Irwin County Detention Center*, 501 F. Supp. 3d 1331, 1335 (M.D. Ga. 2020) (finding that the Government "must bear the burden of proof to justify a noncitizen's detention pending removal proceedings"); and
>
> (2) Order Respondents to give a status report to this Court within three (3) days of any ordered bond hearing, stating whether Petitioner has been granted bond, and, if her request for bond was denied, the reasons for that denial, to certify compliance with this Opinion.

JURISDICTION AND VENUE

11. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq.*

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[1] Counsel is aware, based on recent litigation experience and communications with other immigration practitioners, that many similarly situated noncitizens have faced bond denials following habeas relief on grounds that do not meaningfully address individualized risk, showing that an order requiring a bond hearing without also ordering safeguards does not reliably remedy unlawful detention. (*See e.g.*, Ex. 2, *Romero-Nolasco v. McDonald*, No. 25-cv-12492-MJJ, ECF No. 22 at 5 n.2 (D. Mass. Jan. 14, 2025) ("[I]t is clear that the IJ simply did not apply the factors relevant to assessing whether a person is a flight risk to the evidence.")).

12. 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).

13. 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.

14. "A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may, . . . be brought in any judicial district in which a defendant in the action resides . . ." *See* 28 U.S.C. § 1391(e).

15. The Supreme Court articulated in *Rumsfeld v. Padilla* the standard for determining if a court has jurisdiction to consider a habeas corpus petition, which breaks down into two subquestions—(1) who is the proper respondent to the petition, and (2) does the Court have jurisdiction over that respondent. 542 U.S. 426, 434 (2004).

16. Under *Padilla*, the "immediate custodian" of the detained petitioner is the proper respondent in such habeas actions, which is typically the warden of the facility in which the petitioner is being housed. *See id.* at 443 ("The plain language of the habeas statute thus confirms the general rule that for core habeas petitions

challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.").

17. Here, under *Padilla*, the immediate custodian of the Petitioner, and thus the proper Respondent, is the Warden of the Stewart Detention Center in Lumpkin, Georgia. *See id.* Because this Court has jurisdiction over actions arising in Stewart, Georgia, the venue is proper in this case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. Petitioner has exhausted her administrative remedies to the extent required by law. There is no statutory exhaustion requirement in 28 U.S.C. § 2241. However, "that does not mean that courts may disregard a failure to exhaust and grant relief on the merits if the respondent properly asserts the defense." *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). "To properly exhaust administrative remedies, a petitioner must comply with an agency's deadlines and procedural rules." *Straughter v. Warden, FCC Coleman - Low*, 699 F. Supp. 3d 1304, 1306 (M.D. Fla. 2023) (citing *Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (discussing the Prison Litigation Reform Act's ("PLRA") exhaustion requirement)). It is the Respondent's burden to prove that the Petitioner has "failed to exhaust all available administrative remedies." *Id.* at 1307.

19. Any request for bond through EOIR would be futile at this stage while the Ninth Circuit's stay of the final ruling in *Maldonado Bautista* remains in effect,

as *Matter of Hurtado* still applies. (See Ex. 3, *Maldonado Bautista v. EOIR*, No. 26-1044 (9th Cir. Mar. 31, 2026) (order granting stay pending appeal)); *see also McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992) (noting that traditional exceptions include where exhaustion would cause "undue prejudice to subsequent assertion of a court action" or "irreparable harm" to the petitioner, where there is "some doubt as to whether the agency was empowered to grant effective relief," or where it would be futile because "the administrative body is shown to be biased or has otherwise predetermined the issue before it" (internal quotation marks omitted)), *superseded by statute on other grounds as recognized in Booth v. Churner*, 532 U.S. 731 (2001).

20. Additionally, the Board of Immigration Appeals ("BIA") is the improper venue to adjudicate constitutional issues, as it lacks the authority to rule that Respondents' actions violate the Constitution. Instead, constitutional claims are a matter for federal courts.

21. Accordingly, this Court should find that Petitioner has sufficiently exhausted all administrative remedies.

REQUIREMENTS OF 28 U.S.C. § 2243

22. 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).

23. 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

24. Petitioner is a noncitizen who is currently detained at the Stewart Detention Center. She is in the custody, and under the direct control, of Respondents and their agents.

25. Respondent Warden of the Stewart Detention Center is sued in their official capacity. Respondent Warden is the immediate custodian of the Petitioner.

26. Respondent Kristin Sullivan is sued in her official capacity as the Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Atlanta Field Office. Respondent Sullivan is a legal custodian of Petitioner and has authority to release her.

27. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the DHS. In this capacity, Respondent Mullin 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. Respondent Mullin is a legal custodian of Petitioner.

28. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, he 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. Respondent Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

29. Petitioner, a citizen and national of Venezuela, entered the United States on or about January 19, 2025, at or near Brownsfield, Texas. (*See* Ex. 4, NTA - RANGEL JAIMEZ, Jeanett Josefina - 4.13.2026 ("NTA") at 1).

30. Upon entering the United States, Petitioner surrendered to border authorities. After a brief detention, they released her on January 24, 2025. (*See* Ex. 5, ATD Enrollment - RANGEL JAIMEZ, Jeanett Josefina - 4.8.2026 ("ATD Enrollment")). Petitioner was released through the Intensive Supervision Appearance Program ("ISAP").

31. On January 23, 2025, Respondents issued Petitioner a Notice to Appear ("NTA") with a hearing data originally set in November 2026. (Ex. 4, NTA). The NTA charged Petitioner as removable under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), which states: "[Y]ou are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General." (*Id.*).

32. Petitioner has no criminal history and lived in the United States without incident after her release through ISAP.

33. Three of Petitioner's five children also reside in the United States. (Ex. 6, I-589 Asylum Application - RANGEL JAIMEZ, Jeanett Josefina - 4.8.2026 ("Asylum Application") at 4–5). Two of her children live in Spain after fleeing their circumstances in Venezuela. (*See id.* at 5, 13–14).

34. On or about November 25, 2025, ICE arrested Petitioner when she appeared for her regularly scheduled ISAP appointment.

35. While detained, Petitioner applied through counsel for asylum or withholding of removal on January 19, 2026, based on her fear of returning to Venezuela due to the political persecution she experienced while living there. (*See* Ex. 6, Asylum Application at 7–9, 14–16). In particular, she recounted [redacted]

[redacted] and being forced to move states within Venezuela, as well as to hide her children, which ultimately led to most of her children emigrating. (*See id.* at 14).

36. An Immigration Judge issued a removal order to Petitioner on January 23, 2026, but she appealed on February 3, 2026. That appeal remains pending, and briefing dates have not yet been set.

37. Petitioner is 58 years old and suffers from rheumatoid arthritis and gastroesophageal reflux disease. (*See* Ex. 7, Medical Records - RANGE JAIMEZ, Jeanett Josefina - 4.13.2026 at 2–3). She requires ongoing medical support, including prescribed medications, for these conditions. (*See id.*)

38. Despite this, and despite the pendency of her appeal, Petitioner remains detained at the Stewart Detention Facility in Georgia.

LEGAL FRAMEWORK

39. U.S.C. § 2241(c)(3) authorizes federal courts to grant habeas relief to prisoners or detainees who are "in custody in violation of the Constitution or laws or treaties of the United States." Federal courts retain jurisdiction under § 2241 to review purely legal statutory and constitutional claims regarding the government's detention authority, but jurisdiction does not extend to "discretionary judgment,"

"action," or "decision" by the Attorney General with respect to either detention or removal. *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (citing, *inter alia*, *Demore v. Kim*, 538 U.S. 510, 516–17 (2003)).

40. Under 8 U.S.C. § 1225(b)(2)(A), an applicant for admission seeking admission shall be detained for a removal proceeding. It is now the position of the EOIR, which houses both the BIA and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to *all* individuals who arrived in the United States without documents, regardless of how long they have lived in the United States and regardless of how far they were apprehended from the border.

41. In May 2025, the Board of Immigration Appeals ("BIA") decided *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). The BIA held that a noncitizen who entered the United States without inspection and was arrested without a warrant while "arriving" is an "applicant for admission" under INA § 235(b) and therefore is subject to mandatory detention under § 235(b) and ineligible for a bond hearing under INA § 236(a). *Id.* at 67–68, 70–71. The case involved a Chinese national who crossed the southern border without inspection, was arrested shortly thereafter, and then released on parole under INA § 212(d)(5)(A). *Id.* at 67. After her parole was later terminated, she was detained again and sought a bond hearing. *Id.* The BIA affirmed the immigration judge's denial, holding that because her

detention was under § 235(b), immigration judges lack authority to grant bond under § 236(a). *Id.* at 71.

42. The BIA's reasoning turned on the statutory definition of "applicant for admission," which the BIA interpreted to cover someone who has not been formally admitted and was arrested upon arrival or shortly thereafter, regardless of whether the arrest occurred at a formal port of entry. *Id.* at 67–68.

43. On July 8, 2025, ICE issued an internal memo, the July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" (hereinafter "ICE Memo") that expanded the logic of *Q. Li*. (Ex. 1, ICE Memo). The ICE Memo directed officers to treat virtually all noncitizens in the United States who have not been formally admitted, including those present for years, as "applicants for admission" subject to mandatory detention under INA § 235(b), and thus to refrain from issuing custody-determination forms under § 236(a). (*See id.*)

44. The ICE Memo expanded the reasoning in *Q. Li* beyond individuals who were arrested immediately after entry and applied it broadly, including to people detained long after arrival, by classifying them as "applicants for admission" simply because they had not been formally admitted or paroled. (*See id.*)

45. The ICE Memo states as follows:

> Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286.

(*Id.*)

46. In September 2025, the BIA again expanded this interpretation in *Matter of Hurtado* to cover all individuals who entered without inspection and admission at any point in the past, even if they had been present in the U.S. for years. 29 I&N Dec. 216.

47. As a result of these decisions, Petitioner is currently detained at the Stewart Detention Facility in Georgia, and is the subject of a pending removal proceeding.

48. The Central District of California in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Dec. 18, 2025 C.D. Cal.), recently declared that the ICE memo violated the Administrative Procedure Act ("APA") and vacated *Matter of Hurtado*. However, the Ninth Circuit stayed the district court's order pending its ruling on the government's appeal. (*See* Ex. 3, *Maldonado Bautista*, No. 26-1044 (order granting stay)). Thus, although that judgment will remain fully

in effect in the Central District of California, *Matter of Hurtado* is otherwise still in effect and being relied on widely by immigration judges nationwide.

49. Notably, however, the vast majority of federal courts to consider this issue, including this Court, have agreed with Petitioner's stance. *See, e.g.*, *J.A.M. v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) (finding petitioners' detention governed by 8 U.S.C. § 1226(a)); *P.R.S. v. Streeval*, No. 4:25-cv-343, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025) (same).

50. Accordingly, Petitioner asserts that (1) her Fifth Amendment right to due process of law was violated when the Respondents subjected her to mandatory detention with no individualized hearing despite her living in the interior of the country for approximately eleven months; (2) the Respondents' actions violated the INA when they detained her under 8 U.S.C. § 1225(b)(2)(A), rather than 8 U.S.C. § 1226(a); and (3) the Respondents' actions violated the APA when they detained her under 8 U.S.C. § 1225(b)(2)(A), rather than 8 U.S.C. § 1226(a).

A. Due Process

51. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding her detention. As the Supreme Court has explained, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

52. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).

53. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, *id.* § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111–13 (W.D. Wash. 2019) (providing overview of INA's detention authorities).

54. To guarantee against arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

55. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 522, 528.

56. The government may not detain a noncitizen based on any other justification.

57. To justify immigration detention, this Court has held that the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See J.G. v. Warden, Irwin Cty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1335 (M.D. Ga. 2020) (holding that the government "must bear the burden of proof to justify a noncitizen's detention pending removal proceedings").

58. In *Jennings*, 583 U.S. 281, "the Supreme Court held that [section] 1226(a) does not mandate that a clear and convincing evidence burden be placed on the government in bond hearings, [but] it left open the question of whether the Due Process Clause does." *Darko v. Sessions*, 342 F. Supp. 3d 429, 434–35 (S.D.N.Y. 2018). In considering the question left open by *Jennings*, both the First and Second Circuits, along with several district courts (in addition to this Court), have found that due process requires that the government bear the burden of justifying a noncitizen's § 1226(a) detention. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 39 (1st Cir. 2021) (concluding "that the government must bear the burden of proving dangerousness or flight risk in order to continue detaining a noncitizen under section 1226(a)"); *Velasco Lopez v. Decker*, 978 F.3d 842, 855–57 (2d Cir. 2020) (holding that the government must bear the burden of proving danger and flight risk by clear and convincing evidence if an individual faces prolonged

detention); *see, e.g.*, *Molina Ochoa v. Noem*, No. 1:25-cv-00881, 2025 WL 3125846, at *13 (D.N.M. Nov. 7, 2025) (holding that the government must "bear the burden at a § 1226(a) bond hearing of proving by clear and convincing evidence that Petitioner is a flight risk or a danger to the community"); *Ochoa Ochoa v. Noem*, No. 1:25-cv-10865, 2025 WL 2938779, at *8 (N.D. Ill. Oct. 16, 2025) (same).

59. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

60. First, incarceration deprives noncitizens of a "profound" liberty interest—one that always requires some form of procedural protections. *Diouf v. Napolitano*, 634 F.3d 1081, 1091–92 (9th Cir. 2011); *see also Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted)).

61. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762–63 (1982) (requiring clear and convincing evidence at parental termination proceedings because "numerous factors combine to magnify the risk of erroneous factfinding"

including that "parents subject to termination proceedings are often poor, uneducated, or members of minority groups" and "[t]he State's attorney usually will be expert on the issues contested"). Moreover, Respondents detain noncitizens in prison like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.

62. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention.

63. In light of these considerations, "[t]he overwhelming majority of courts to consider the question . . . have concluded that imposing a clear and convincing standard would be most consistent with due process." *Martinez v. Decker*, No. 1:18-cv-6527, 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).

64. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program

("ISAP")—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). It follows that alternatives to detention must be considered in determining whether further incarceration is warranted, particularly where, as here, Petitioner was enrolled in and complying with ISAP and regularly attended ICE check-ins—and in fact was arrested while attending one.

65. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: "the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 583 U.S. at 329 (Breyer, J., dissenting); *accord Chavez-Alvarez v. U.S. Att'y Gen.*, 783 F.3d 478 (3d Cir. 2015); *Ngo v. INS*, 192 F.3d 390, 397–98 (3d Cir. 1999); *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1218, 1221 (11th Cir. 2016). "And in some cases[,] the conditions of their confinement are inappropriately poor." *Jennings*, 583 U.S. at 329 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, *e.g.*, indiscriminate strip

searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

66. These conditions and obstacles only further underscore the serious due process concerns that immigration detention poses for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding further detention.

B. INA

67. The Petitioner is not properly detained under 8 U.S.C. § 1225(b)(2)(A), but under 8 U.S.C. § 1226(a). Pursuant to 8 U.S.C. § 1225(b)(2)(A):

> 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 [i.e., removal proceedings].

68. Petitioner maintains that she is detained under 8 U.S.C. § 1226(a), which provides that:

> On 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. Except as provided in subsection (c) [mandating the detention of certain criminal aliens] and pending such decision, the Attorney General—
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> (1) may continue to detain the arrested alien; and
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> (2) may release the alien on—

> (A) bond of at least $1,500 with security approved by, and containing conditions described by, the Attorney General; or
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> (B) conditional parole; but
>
> (3) may not provide the alien with work authorization . . . unless the alien is lawfully admitted for permanent residence or otherwise would . . . be provided such authorization.

69. "Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." *Park 'N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 194 (1985). Thus, the Court's "first step in interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Id.* (citing, *inter alia*, *Estate of Cowart v. Nicklos Drilling Co.*, 505 U.S. 469, 477 (1992)).

70. Thus, *Matter of Hurtado*, 29 I&N Dec. 216, was wrongly decided and should not be given weight. In that case, the Board held that "[b]ased on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." *Id.*

71. This Court has previously rejected the reasoning and holding of *Matter of Hurtado*. As this Court noted in the recent case *J.A.M. v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), "under no reasonable interpretation is 'alien seeking admission' synonymous with 'any alien present in the United States who has not been admitted.'" *See J.A.M.*, 2025 WL 3050094, at *5; *see also P.R.S. v. Streeval*, No. 4:25-cv-343, 2025 WL 3269947, at *1 (M.D. Ga. Nov. 24, 2025) ("The Court has previously rejected Respondents' broad interpretation of § 1225(b)(2) that detention is mandatory for any alien who has not been lawfully admitted.").

72. Accordingly, the Petitioner's detention violates the INA, and she is entitled to release, or in the alternative, a constitutionally sufficient bond hearing.

C. APA

73. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

74. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007)

(quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

CLAIMS FOR RELIEF

COUNT ONE

Respondents Violated Petitioner's Fifth Amendment Right to Due Process

Procedural Due Process

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

76. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

77. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

78. Where detention has been found unlawful, habeas relief must be effective, not merely formal. A bare order for a bond hearing does not necessarily cure a constitutional violation where the adjudicator retains unbounded authority to

deny release without meaningful engagement with individualized flight risk or danger.

79. In such circumstances, District Courts have the authority to order release or in the alternative, a bond hearing with appropriate safeguards in place. (*See, e.g.*, Ex. 8, *Soto-Medina v. Lynch et al.*, No. 1:25-CV-1704, 2026 WL 161002, at *11 (W.D. Mich. Jan. 21, 2026) (ordering respondents "to provide Petitioner with an individualized bond hearing before an immigration judge, at which time the government will have the burden to demonstrate dangerousness or flight risk by clear and convincing evidence, or, in the alternative, immediately release Petitioner from custody" as well as "to file a status report within six business days of the date of this Court's Opinion and Judgment to certify compliance with this Opinion and the corresponding Judgment.")).

80. Here, Petitioner is entitled to due process protections under the Fifth Amendment of the U.S. Constitution. Respondents' failure to provide Petitioner with an individualized bond hearing violates Petitioner's rights under the Due Process Clause.

81. Under the three-part test of *Mathews*, 424 U.S. 319, the balance overwhelmingly favors Petitioner. Her interest in liberty and family unity is paramount; the Government's blanket detention policy under *Matter of Hurtado* creates an extreme risk of erroneous deprivation by denying her any opportunity to

demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means.

82. The Respondents have shown neither that the continued detention of petitioner following her initial detention is reasonably related to the original purpose nor that the *Mathews* tests are satisfied. And, importantly, no procedural safeguards have been provided to the Petitioner.

83. Any request for bond through EOIR would be futile at this stage while the Ninth Circuit's stay of the final ruling in *Maldonado Bautista* remains in effect, as *Matter of Hurtado* still applies. (See Ex. 3, Maldonado Bautista, No. 26-1044 (order granting stay pending appeal)).

84. Petitioner has been a resident of the United States since January 2025. (See Ex. 5, ATD Enrollment). She was arrested in the interior in November later that year, yet DHS asserts mandatory detention under INA § 235 without initiating expedited removal or processing her as an actual applicant for admission. *See Matter of Hurtado*, 29 I&N Dec. at 220 (making it clear that Respondents consider all individuals who entered without inspection and admission "applicants for admission" subject to mandatory detention under INA § 235(b)). The government's reclassification of Petitioner as an "applicant for admission," without statutory basis and without meaningful opportunity to contest that designation, deprives her of liberty without due process. Civil detention without an individualized

determination of danger or flight risk is unconstitutional. *See Zadvydas*, 533 U.S. 678; *Demore*, 538 U.S. 510 (as limited by subsequent authority); U.S. Const. amend. V.

85. As the Supreme Court noted in *Zadvydas*, civil immigration detention is constitutionally permissible only so long as it bears a reasonable relationship to its underlying purpose. 533 U.S. at 690. Therefore, where detention persists without an effective mechanism for individualized justification, it loses its legal foundation.

86. Additionally, any constitutionally sufficient bond hearing ordered for the Petitioner means the burden of proof falls on the government to show by clear and convincing evidence that she is a flight risk or danger to society. *See, e.g.*, *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213 (3d Cir. 2020) (holding that "once detention under § 1226(c) has become unreasonable, the Government must put forth clear and convincing evidence that continued detention is necessary"); *J.G.*, 501 F. Supp. 3d at 1335 (holding that the government "must bear the burden of proof to justify a noncitizen's detention pending removal proceedings"); (*see also, e.g.*, Ex. 10, *Soto-Medina*, 2026 WL 161002, at *11 (granting habeas petition and ordering that the government would have the burden to demonstrate dangerousness or flight risk by clear and convincing evidence and must file a status report within six business days of the Court's order)).

87. Accordingly, due process requires she be afforded an individualized bond hearing under § 1226(a), or that she be released from custody immediately.

COUNT TWO

Petitioner is Detained Under INA § 236, Not § 235

Statutory Violation

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

89. Here, the Petitioner is clearly not an "applicant for admission." Her NTA charged her as an "alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General," (Ex. 4, NTA), and thus, she should be treated by law as someone who had already entered the United States. Accordingly, her detention is governed exclusively by INA § 236(a).

90. Petitioner was released into the interior of the United States in January 2025 through ISAP, and she lived in the United States without incident until Respondents arrested her at an ICE check-in.

91. Respondents did not process the Petitioner as an arriving alien, did not initiate expedited removal, and did not issue or reinstate a final removal order.

92. Further, contrary to the language of § 1225(b), § 1226(a) does not specify a class or classes of aliens who should be detained under the provision, but

governs more generally the "apprehension and detention of aliens." As opposed to the inspection regime for aliens entering the United States set forth in § 1225, the Supreme Court has characterized § 1226(a) as "authoriz[ing] the government to detain certain aliens *already* in the country pending the outcome of removal proceedings[.]" *Jennings*, 583 U.S. at 289 (emphasis added).

93. Noncitizens processed under § 236 retain a statutory right to a bond hearing. *Matter of Hurtado's* removal of bond jurisdiction whenever DHS claims § 235 authority essentially grants the agency unfettered power to eliminate bond hearings for any noncitizen arrested in the interior, simply by re-labeling them as an "applicant for admission" without following statutory procedures for expedited removal. *See* 29 I&N Dec. 216. Such a reading raises grave Due Process concerns and cannot reflect congressional intent.

94. Because Petitioner is properly detained under § 236(a), she is entitled to a constitutionally sufficient and individualized custody hearing.

95. Thus, Petitioner was entitled to a bond hearing "at the outset of detention" as established by existing federal regulations. *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.l(d)(l), 1236.l(d)(l)).

96. This Court came to the same conclusion in recent habeas decisions regarding the applicability of INA § 236 and § 235 to detained immigrants who were living in the interior of the country before being arrested by immigration

authorities. *See J.A.M. v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, No. 4:25-cv-343, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

97. Petitioner is therefore entitled immediate release or in the alternative, a constitutionally sufficient bond hearing.

COUNT THREE

Respondents Violated of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Unlawful Detention not in Accordance with Law and in Excess of Statutory Authority

98. Petitioner restates and realleges all paragraphs as if fully set forth here.

99. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Commerce v. New York*, 588 U.S. 752, 773 (2019) (citation omitted).

100. Here, by detaining the Petitioner without any consideration of her individualized facts and circumstances, Respondents have violated the APA.

101. Respondents have made no finding that Petitioner is a danger to the community.

102. Respondents have made no finding that Petitioner is a flight risk.

103. Thus, the Petitioner is entitled to immediate release or a prompt bond hearing with extra safeguards.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
3. Declare that the Petitioner's detention violates the INA;
4. Declare that the Petitioner's detention violates the APA;
5. Issue a Writ of Habeas Corpus ordering Petitioner immediately released, or in the alternative, ordering Respondents to conduct a constitutionally sufficient bond hearing within three (3) days, with the following safeguards in place:
    a. Declare that Respondents bear the burden to show flight risk or danger to society; and
    b. Order Respondents to give a status report to this Court within three (3) days showing compliance with this Court's Opinion.
6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
7. Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Brittany S. Pierce
Attorney Bar Number: 613909
Attorney for Jeanett Josefina Rangel Jaimez,
Lively Law Firm
2221 Edge Lake Drive, Suite 175
Charlotte, NC 28217
Telephone: (980)-202-7991
E-Mail: brittany@livelylawfirm.com

Counsel for Petitioner

Dated: 14 April, 2026

EXHIBITS

EXHIBIT 1 -	**ICE Memo "Interim Guidance Regarding Detention Authority for Applicants for Admission," dated July 8, 2025**
EXHIBIT 2 -	***Romero-Nolasco v. McDonald*, No. 25-cv-12492-MJJ, ECF No. 22 (D. Mass. Jan. 14, 2025)**
EXHIBIT 3 -	***Maldonado Bautista v. EOIR*, No. 26-1044 (9th Cir. Mar. 31, 2026)**
EXHIBIT 4 -	**NTA - RANGEL JAIMEZ, Jeanett Josefina - 4.13.2026**
EXHIBIT 5 -	**ATD Enrollment - RANGEL JAIMEZ, Jeanett Josefina - 4.8.2026**
EXHIBIT 6 -	**I-589 Asylum Application - RANGEL JAIMEZ, Jeanett Josefina - 4.8.2026**
EXHIBIT 7 -	**Medical Records - RANGEL JAIMEZ, Jeanett Josefina - 4.13.2026**
EXHIBIT 8 -	***Soto-Medina v. Lynch et al.*, No. 1:25-CV-1704, 2026 WL 161002 (W.D. Mich. Jan. 21, 2026)**

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

I represent Jeanett Josefina Rangel Jaimez 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 14th day of April, 2026.

s/Brittany S. Pierce
Brittany S. Pierce