

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

Teresa Correa Tovar	)	CASE NO. 4:26-cv-_____
	)	
Petitioner,	)	PETITION FOR WRIT OF HABEAS
	)	CORPUS UNDER 28 U.S.C. § 2241 AND
vs.	)	COMPLAINT FOR INJUNCTIVE AND
	)	DECLARATORY RELIEF
	)	
Jason Streeval , Warden,	)	
Stewart Detention Center	)	
Markwayne Mullin , Secretary	)	
Department of Homeland	)	
Security;	)	
Todd Lyons , Director,	)	
Immigration Customs	)	
Enforcement; Todd Blanche ,	)	
Acting Attorney General;	)	
Ladeon Francis , Director,	)	
Atlanta ICE Field Office	)	
	)	
Respondents.	)	

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR DECLARATIVE AND INJUNCTIVE RELIEF**

I. INTRODUCTION

1. Petitioner, Teresa Correa Tovar, ("Petitioner"), A# XXXXXXXXXX challenges her ongoing unlawful detention by U.S. Immigration and Customs Enforcement ("ICE") at the Stewart Detention Center in Lumpkin, Georgia. Petitioner is neither a flight risk nor a danger to the community.
2. Petitioner is a citizen and national of Mexico, who has been continuously detained at the Stewart Detention Center since March 19, 2026. The Stewart Detention

Center in Lumpkin, Georgia, is within the jurisdiction of this Court.

3. The petitioner is the derivative of a I-918 U visa application filed by her husband, Angel Colin Gomez, who was the victim of a shooting by strangers when he was working as a taxi driver. Petitioner filed an I-918A and an I-192 application for a U visa, which were received by USCIS on October 2, 2017. *See* Exhibit 1. On October 20, 2022, USCIS issued a bona fide determination. *See* Exhibit 2. USCIS has yet to adjudicate the full I-918A and I-192 petitions.
4. As part of that bona fide determination, the petitioner received notice that she had received deferred action and work authorization. The petitioner informed the ICE agents during her arrest that she had a valid work permit.
5. Petitioner challenges the legality of her prolonged detention and the categorical denial of any meaningful bond hearing. Petitioner entered without inspection and is likely charged as inadmissible under INA § 212(a)(6)(A)(i) and INA § 212(a)(7)(A)(i)(I).
6. Petitioner challenges the legality of her detention as she received deferred action from USCIS, including a valid work authorization. Petitioner reasonably relied on that deferred action.
7. The petitioner has not been accused, charged, or convicted of any crimes.
8. Although the Department of Homeland Security has likely characterized her as an applicant for admission, her continued detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment and exceeds the authority granted by the Immigration and Nationality Act.
9. Any attempt to classify Petitioner as an “arriving alien” subject to mandatory

detention under 8 U.S.C. § 1225(b), and to justify her continued confinement without bond on that basis, is legally erroneous. Petitioner's custody is governed by 8 U.S.C. § 1226(a), which expressly contemplates discretionary detention and individualized determinations regarding release on bond.

10. This case falls squarely within the parameters of *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 ((M.D. Ga. Nov. 24, 2025) in which the Middle District of Georgia held that noncitizens found in the United States without inspection are entitled to discretionary bond hearings under Section 1226(a). The Court recently issued a Standing Order recognizing that the Governments continued refusal to provide bond hearings in such cases constitutes an administrative judicial emergency and authorizing expedited screening and immediate relief.

11. For the foregoing reasons, issuance of the writ of habeas corpus is warranted. Petitioner seeks a declaratory judgment from this Court affirming that her detention should be under 8 U.S.C. § 1226(a). The Petitioner requests an order for her immediate release without restrictions or conditions due to her unlawful arrest. Alternatively, the Petitioner seeks an order for a discretionary bond hearing under § 1226(a) before an Article III judge, where the government must prove a change in circumstances following the grant of deferred action, and then must prove by clear and convincing evidence that she is a danger to the community or a flight risk. Additionally, the Petitioner requests that Respondents be prohibited from re-detaining her or put any restraints on her liberty unless they can meet the same evidentiary standard.

II. JURISDICTION

12. This Court has jurisdiction under several legal provisions, including 28 U.S.C. § 2241, which grants federal courts the authority to issue writs of habeas corpus, and 28 U.S.C. § 1331, which provides for federal question jurisdiction. Jurisdiction over habeas claims is conferred by 28 U.S.C. § 2241, while non-habeas claims for declaratory and injunctive relief arise under 28 U.S.C. § 1331, the APA, and the Declaratory Judgment Act.
13. Additionally, jurisdiction is supported by Article I, § 9, cl. 2 of the Constitution, known as the Suspension Clause, and Article III, Section 2, which addresses the Court's authority to hear constitutional issues raised by the Petitioner. The Petitioner seeks immediate judicial intervention to address ongoing violations of constitutional rights by the Respondents. This action is grounded in the United States Constitution, the Immigration & Nationality Act of 1952, as amended (INA), 8 U.S.C. § 1101 *et seq.*, and the APA, 5 U.S.C. § 551 *et seq.* Furthermore, the Court may also exercise jurisdiction under 28 U.S.C. § 1331, as the action arises under federal law, and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
14. The Court has authority to issue a declaratory judgement and to grant temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure (FRCP), as well as 28 U.S.C. §§ 2201-2202. Additionally, the Court can utilize the All Writs Act and its inherent equitable powers to provide such relief. Furthermore, the Court has the authority to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

15. This Court possesses federal question jurisdiction under the APA to “hold unlawful and set aside agency action” deemed “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” as outlined in 5 U.S.C. § 706(2)(A). In the absence of a specific statutory review process, APA review of final agency actions can proceed through “any applicable form of legal action,” which includes actions for declaratory judgments, writs of prohibitory or mandatory injunction, or habeas corpus, in a court of competent jurisdiction, as specified in 5 U.S.C. § 703.
16. In *I.N.S. v. St. Cyr*, the Supreme Court held that federal courts retain *habeas corpus* jurisdiction under 28 USC § 2241, despite restrictions on judicial review enacted under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). 533 U.S. 289 (2001). Consequently, section 2241 habeas review remains available to Petitioner.
17. The U.S. Supreme Court has recognized district courts’ jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law. Even though the government may detain individuals during removal proceedings, *Denmore v. Kim*, 538 U.S. 510, (2003) (although that case involved detention under §1226(c) of certain criminal aliens), there are limitations to this power of the executive branch. Limitations like the Due Process Clause restrict the Government’s power to detain noncitizens. It is well settled that individuals in deportation proceedings are entitled to due process of law under the Fifth Amendment. *Reno v. Flores*, 507 U.S. 292, 306, (1993). Courts must review

immigration procedures and ensure that they comport with the Constitution.

18. Federal courts have retained the statutory authority to grant writs of habeas corpus since enactment of the Judiciary Act of 1789. In *Felker v. Turpin*, 518 U.S. 651 (1996), the Supreme Court declined to find a repeal of § 2241 by implication as to its original habeas corpus jurisdiction. See also *Boumediene v. Bush*, 553 U.S. 723 (2008). In addition to the Supreme Court in many cases, all Circuit Courts of Appeals have recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law.
19. In this case, Petitioner asserts substantial constitutional violations—including deprivation of liberty without due process, arbitrary and capricious agency action, violations of the *Accardi* doctrine, and other injuries without notice or opportunity to be heard. These claims fall squarely within the scope of habeas review preserved by statute and recognized by controlling precedent. Accordingly, this Court has both the authority and the obligation to adjudicate the constitutional and statutory claims presented in this Petition and to grant appropriate relief to remedy ongoing violations of Petitioner's rights.
20. Petitioner's claims challenge only her civil immigration detention and the procedures used to prolong it—not the merits of removability or any final order of removal—and therefore fall outside 8 U.S.C. § 1252(b)(9)'s channeling provision. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (detention challenges are not “questions of law or fact arising from” removal proceedings). Consistent with

that framing, any injunctive relief sought here is strictly as-applied to Petitioner—for example, directing Petitioner’s release under § 1226(a) or barring application of § 1225 as to Petitioner—and does not “enjoin or restrain the operation” of any statute within § 1252(f)(1)’s bar. In any event, § 1252(f)(1) permits individualized, as-applied relief for a single noncitizen, even while prohibiting class-wide injunctions. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–49 (2022).

21. Section 1252(f)(1) does not bar the individualized injunctive relief sought here.

That provision limits lower courts’ authority to “enjoin or restrain the operation” of the INA’s detention and removal provisions on a class-wide or programmatic basis but expressly preserves injunctive relief “with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.” 8 U.S.C. § 1252(f)(1); *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–50 (2022). Petitioner seeks only as-applied relief tailored to Petitioner—e.g., directing Petitioner’s release under § 1226(a) or precluding DHS from enforcing the “arriving alien” definition of § 1225 toward Petitioner. That relief neither halts the general operation of any INA provision nor provides class-wide relief and thus falls squarely within § 1252(f)(1)’s carve-out.

22. Section 1252(g) is likewise inapplicable. It is a “narrow” jurisdictional bar that applies only to three discrete decisions or actions: “to commence proceedings, adjudicate cases, or execute removal orders.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Petitioner does not challenge any such decision. Petitioner challenges ongoing civil detention and DHS’s use of an unlawful interpretation to nullify the plain language of the INA and its

regulations as applicable to these agencies. Such detention-related claims and challenges to custody procedures fall outside § 1252(g). *See id.* at 482–83; cf. *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (§ 1252(b)(9) does not channel detention claims).

23. To prevent ouster of this Court’s habeas jurisdiction, the Court should, pursuant to 28 U.S.C. § 1651(a) (All Writs Act) and 28 U.S.C. § 2241, issue an immediate limited order prohibiting Respondents from transferring Petitioner outside the court’s District or otherwise changing Petitioner’s immediate custodian without prior leave of Court while this action is pending. Such relief is necessary in aid of jurisdiction because habeas is governed by the district-of-confinement/immediate-custodian rule, and transfer can frustrate effective review. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441–42 (2004); *Ex parte Endo*, 323 U.S. 283, 307 (1944); *FTC v. Dean Foods Co.*, 384 U.S. 597, 603–05 (1966).
24. This Complaint in part also seeks a civil action for mandamus, injunctive and declaratory relief brought pursuant to 5 U.S.C. §§ 1329, 1331, 1391, 2201 and 28 U.S.C. § 1361 (to compel an officer or employee of the United States or agency thereof to perform a duty owed to the plaintiff). Jurisdiction is also conferred by 5 U.S.C. § 555(b) which directs agencies to conclude matters presented to them “within a reasonable time,” § 704 (no other adequate remedy), and § 706 (to compel agency action unlawfully withheld or unreasonably delayed). *See also* 5 U.S.C. § 551 *et seq.*; 5 U.S.C. § 701 *et seq.* Relief is requested pursuant to said statutes and 28 U.S.C. § 1361 (Mandamus Act), (to compel an officer or employee of the United States or agency thereof to perform a duty owed to the plaintiff), 28 U.S.C. § 2201

(Declaratory Judgment Act), 28 U.S.C. § 2202 (injunctive relief), and 28 U.S.C. § 2412 (costs and fees). Relief is requested pursuant to said statutes.

III. VENUE

25. Venue is proper in the United States District Court for the Middle District of Georgia because Petitioner is currently detained at Stewart Detention Center in the Middle District, under the custody of the Department of Homeland Security (“DHS”). Respondents are the Petitioner’s immediate custodians and Respondents exercise authority over Petitioner’s custody in this jurisdiction, as supported by *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). Habeas petitions generally are filed in the district court with jurisdiction over the filer’s place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241. Additionally, with respect to Petitioner’s non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. § 1391(e)(1)(B) because a substantial part of the events or omissions giving rise to these claims, including the continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in this District. Furthermore, the Respondents are officers of United States agencies, and there is no real property involved in this action.
26. Administrative remedies are also inadequate under these circumstances. Petitioner challenges the legality of her continued civil detention under the Constitution and the Immigration and Nationality Act, claims that fall squarely within the province

of the federal courts.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

27. Although 28 U.S.C. § 2241 does not impose a statutory exhaustion requirement, courts may consider whether a petitioner has pursued available administrative remedies.

28. Any prudential exhaustion requirement is satisfied or, in the alternative, should be excused here. Petitioner has effectively been denied any available administrative remedy to challenge his custody. Should she file a motion for bond re-determination, it would be denied under *Matter of Yajure Hurtado*, 29 I & N 216 (BIA 2025) as she entered without inspection.

29. Further administrative review would be futile. The Board of Immigration Appeals lacks authority to grant habeas relief or to adjudicate the constitutional claims raised in this Petition. Because the Immigration Judge expressly disclaimed jurisdiction to consider bond, no administrative remedy is available to address the legality of Petitioner's detention.

V. PARTIES

30. Petitioner, Teresa Correa Tovar, is a citizen and national of Mexico who is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

31. Respondent, Jason Streeval, is the Warden of the Stewart Detention Center, who has immediate physical custody of Petitioner and is a proper respondent in this action. See *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). He is being sued in his official capacity.

32. Respondent, Todd Lyons, is the acting Director of the United States Immigration and Customs Enforcement and is responsible for national detention policies and practices. He is being sued in his official capacity.
33. Respondent, Ladeon Francis, is the Atlanta Field Office Director of the Immigration and Customs Enforcement and exercises legal authority over Petitioner's detention. Respondent Francis is responsible for the oversight of ICE operations at the Detention Centers around Georgia. Respondent Francis is being sued in his official capacity. He is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took place under his direction and supervision. He is also the immediate *legal* custodian of Petitioner.
34. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Mullin is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.
35. Respondent Todd Blanche is the acting Attorney General of the United States and is sued in his official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as his designees at the Executive Office for Immigration Review (EOIR).

VI. STATEMENT OF FACTS

36. Petitioner entered the United States without inspection in May 2004. Petitioner has resided at the same home since May 2009 in Loganville, Georgia. She lives there with her husband, Angel Colin Gomez, as well as her children Angel Colin Gomez (age 20) and M. C. C.¹ (age 14), who were both born in Georgia and are United States citizens. She has gainful employment as a factory worker for Celofam. She has never been arrested, cited, or charged with any criminal behavior. Petitioner remains detained and has been continuously confined since March 19, 2026

37. Petitioner currently has a master calendar hearing scheduled for May 5, 2026 at 10 AM in before Immigration Judge Bianca Brown at the Stewart Detention Center in Lumpkin, Georgia. *See* Exhibit 3 (EOIR Automated Case Information System).

¹ Initials for the privacy of the minor child.

VII. ARGUMENT

JURISDICTIONAL BAR TO BOND HEARING

38. Petitioner was treated as an arriving alien; the Immigration Judges concluded that INA § 1225(b) deprived the court of authority to review ICE's custody determination. Relying on agency interpretations of the immigration detention statutes, the Immigration Judges declined to consider whether Petitioner's continued detention was justified by any flight risk or danger he might pose. No individualized assessment of Petitioner's suitability for release was ever conducted.

39. This categorical jurisdictional bar foreclosed any meaningful review of Petitioner's detention at an early stage of her confinement. Petitioner was denied the basic procedural safeguard of a bond hearing, even as her detention began and continued. The ordinary process by which a detainee could seek reconsideration of custody status is entirely unavailable to Petitioner, setting the stage for her prolonged confinement without the benefit of the case-by-case evaluation that Congress ordinarily provides in INA § 1226(a) custody redeterminations.

PROLONGED DETENTION WITHOUT A BOND HEARING

40. As Petitioner's removal case progressed, she remains jailed without any opportunity for release. By late 2025, multiple federal district courts in Georgia had issued decisions recognizing that noncitizens in Petitioner's circumstances, longtime residents detained within the United States and charged under INA § 212(a)(6)(A)(i), are entitled to individualized bond hearings under 8 U.S.C. § 1226(a), notwithstanding DHS's contrary view.

41. Despite this growing body of case law, the Immigration Judge's at the Stewart Immigration Court continue to apply a blanket rule that they cannot entertain a bond request. The Immigration Judges refuse to evaluate Petitioner's individual circumstances and make any findings as to whether Petitioner might be a flight risk or a danger to the community.

42. As a result, Petitioner remains detained based solely on a legal interpretation that denies her any opportunity for an individualized custody review. Nearly a month has passed since Petitioner was first confined, and during that time she has never had a hearing to determine whether his detention is necessary or justified based on the merits of whether she is a flight risk or a danger to the community. Less restrictive alternatives to incarceration, such as release on a reasonable bond or other conditions, have never been considered.

43. The continued categorical denial of a bond hearing has left Petitioner with no administrative avenue to secure his freedom while she awaits the resolution of her immigration case.

CLAIM FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment Due Process Clause

44. The allegations in the above paragraph are realleged and incorporated herein.

45. The Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of liberty without due process of law.

These protections extend to all persons within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

46. Whether the procedures accompanying a noncitizen's civil detention satisfy due process is evaluated under the balancing test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), which considers: (1) the private interest affected by official action; (2) the risk of an erroneous deprivation of that interest through the procedures used; and (3) the government's interest, including the function involved and the fiscal or administrative burdens that additional procedural requirements would entail.

47. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test to Petitioner's case:

- a. Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail determination, is "without question, a weighty one." *Landon v. Plasencia*, 459 U.S. at 34, 103 S.Ct. 321. Petitioner is being held at a county jail in the same conditions as criminal inmates, unable to work and is far from his family. At minimum, the government must come forward with concrete, case-specific reasons that outweigh Petitioner's substantial liberty interest in continued release.
- b. The risk of erroneous deprivation of liberty is significant due to the absence of an independent adjudicator, as highlighted in *Marcello v. Bonds*, 349 U.S. 302,

305-306 (1955). This risk is exacerbated by the coordinated actions of both DHS and EOIR, which operate under a unified approach that effectively denies bond to noncitizens in Petitioner's situation, thereby unilaterally depriving them of their liberty.

ICE is acting as both the prosecutor as well as the adjudicator. ICE can effectuate long detention periods for Petitioner and others in his situation just because they now interpret Petitioner as being subject to mandatory detention as an "arriving alien" and immigration judges at EOIR are prevented from considering bonds under the same circumstances.

- c. Lastly, the interest of the government in being able to invoke the challenged ICE memorandum and novel interpretation and EOIR's *Matter of Yajure Hurtado* is minimal. This is primarily because the interpretation is not supported by the plain reading of the INA, which clearly delineates the circumstances under which noncitizens are subject to mandatory detention. The interpretation also conflicts with existing DHS and EOIR regulations that have historically distinguished between arriving aliens and those apprehended in the interior, providing the latter with the opportunity for bond hearings under 8 U.S.C. § 1226(a). When the government ignores law (and agency breaks its own regulations, policies and procedures), it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel

Respondents to comply with law, requiring Respondents to instead follow the law and their regulations reduces fiscal and administrative burdens on the government. Furthermore, the government's interest is further diminished by the potential constitutional violations that arise from denying noncitizens their due process rights, as the interpretation effectively eliminates the procedural safeguards intended to prevent erroneous deprivation of liberty.

- d. In conclusion, all three *Mathews* factors favor Petitioner's position. The novel DHS and EOIR interpretations violate Petitioner's procedural due process rights under the Fifth Amendment. Collateral harms from detention—including separation from Petitioner's family and friends and Petitioner's ability to maintain employment—further underscore the weight of the private interest and the risk of erroneous deprivation. These are collateral consequences of continued confinement that amplify the ongoing liberty deprivation, are not compensable by money damages, and therefore weigh heavily in the *Mathews* balance and the equitable analysis, without expanding the scope of relief requested.

COUNT TWO

Detention Not Authorized by the Immigration and Nationality Act and Agency Action Not in Accordance with Law

(5 U.S.C § 706(2)(A) and 8 U.S.C. § 1226)

48. The allegations in the above paragraph are realleged and incorporated herein.

49. The Immigration and Nationality Act authorizes only discretionary civil immigration detention, with individualized custody determinations under 8 U.S.C. § 1226(a).

50. Congress did not mandate unconditional, prolonged detention for immigrants like Petitioner who were arrested inside the United States and have substantial ties to the community. The categorical denial of bond in Petitioner's case, based solely on an agency's interpretation that classifies him as an arriving alien and thereby strips Immigration Judges of jurisdiction, exceeds the detention authority that Congress has granted.

51. It effectively places Petitioner in the category of mandatory detention without statutory basis, in contravention of the framework set forth by Congress in the Immigration Nationality Act ("INA").

52. Under the Administrative Procedure Act, a reviewing court must set aside agency action that is arbitrary, capricious, or not in accordance with law. 5 U.S.C. § 706(2)(A). An agency acts unlawfully when it fails to consider relevant factors, departs from the evidence before it, or applies a categorical rule that exceeds its statutory authority.

53. Respondent's agents and the immigration authorities have treated Petitioner as ineligible for bond by applying a blanket policy that disregards the text of 8 U.S.C. § 1226(a). Petitioner has been detained for months without any individualized determination that he poses a flight risk or a danger to the community. There have been no administrative findings to justify his ongoing incarceration. By continuing to detain Petitioner without a bond hearing or individualized reasoning, Respondent is acting

more than the statutory authority provided by the INA and in a manner not in accordance with law.

54. Because Respondent's continued detention has been implemented in a way that conflicts with the governing statute and fails to observe the procedure required by law, her ongoing detention is unlawful. The Court should grant habeas relief and order that Petitioner be afforded the process Congress provided, or her immediate release.

COUNT THREE

Detention Violates Petitioner's Due Process Rights as Petitioner Reasonably Relied on a Grant of Deferred Action

(8 U.S.C. 1184(p)(6) and I CFR 274a.12(c)(14))

55. The allegations in the above paragraph are realleged and incorporated herein.

56. The petitioner was granted deferred action and a work authorization by USCIS on October 20, 2022, pursuant to 8 U.S.C. 1184(p)(6) and I CFR 274a.12(c)(14).

57. The petitioner's work permit remains valid and expires on October 16, 2026.

58. During petitioner's detention by ICE, petitioner informed Georgia State Patrol and ICE agents that she had a valid work authorization.

59. The petitioner has not been arrest, cited, or charged with any crimes. The petitioner and counsel are unaware of any change in circumstances or factual allegations that would merit revocation of the petitioner's deferred action.

60. The petitioner filed her U visa petition through counsel's firm, which has received all notices regarding her application. To date, there has been no notice received of a revocation or intent to revoke the petitioner's deferred action or bona fide determination.

61. The petitioner has a substantive due process interest in the deferred action determination based on petitioner's reliance on it. The petitioner also has a procedural due process interest in reasoned decision making should the Department of Homeland Security seek to revoke her deferred action. See *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020) (reliance interests). See also *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983) (requirement of reasoned decision making).

62. The petitioner requests immediate release based on the grant of deferred action. Should the department seek to re-detain the petitioner, the petitioner seeks a pre-detention hearing where the government would bear the burden of showing a change in circumstances.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the ongoing deprivation of liberty and irreparable harm:

- (1) Assume jurisdiction over this matter under 28 U.S.C. §§ 2241 and 1331 and the Suspension Clause;
- (2) Issue an Order to Show Cause, ordering Respondents to justify why this

- writ should not be granted to Petitioner and the basis of Petitioner's detention in fact and law, **within the 3 days authorized by the statute;**
- (3) Enjoin Petitioner's transfer outside this District and removal from the United States, and prohibit any change of Petitioner's immediate custodian, without prior leave of Court while this action is pending, pursuant to 28 U.S.C. §§ 1651(a) and 2241;
 - (4) Declare that Petitioner is not an "applicant for admission "1225(b), seeking admission" or an "arriving alien" and that Petitioner's detention is unlawful;
 - (5) Declare that Respondents' actions, as set forth herein, and Petitioner's continued detention violate the Due Process Clause of the Fifth Amendment, the INA and its implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine;
 - (6) Grant Petitioner a Writ of Habeas Corpus and order Respondents to immediately release Petitioner from custody, or, in the alternative, order Respondents to conduct a bond hearing for Petitioner pursuant to 8 U.S.C. § 1226(a) within 3 days, before an Article III judge, where the *government* bears the burden to prove that there has been a change of circumstances after the grant of deferred action on October 20, 2022, and if the government meets that burden then it bears the burden to prove, by clear and convincing evidence, that Petitioner is a flight risk or a danger to the community;

- (7) Enjoin Respondents from re-detaining Petitioner in the future pursuant to 8 U.S.C. § 1225 or pursuant to 8 U.S.C. § 1226(a) absent changed circumstances such as new criminal conduct;
- (8) Award Petitioner reasonable attorney's fees and costs;
- (9) Waive or set a nominal security under Fed. R. Civ. P. 65(c); and
- (10) Grant such other and further relief as this Court deems just, proper or equitable under the circumstances.

This 17th Day of April, 2026.

A handwritten signature in black ink, appearing to read 'Clayton C. McClain', written over a horizontal line.

Clayton C. McClain, Esq.
VAZQUEZ & SERVI, P.C.
3190 NE Expressway, NE
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 17th Day of April, 2026.

A handwritten signature in black ink, appearing to read 'Clayton C. McClain', is written over a horizontal line.

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