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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Cristhian Bethzabel Gonzalez Portilla

Petitioner-Plaintiff,

v.

Eric Rokosky, Warden, Eloy Detention Center (CoreCivic), U.S. Department of Homeland Security;

Todd M. Lyons, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

Markwayne Mullin, in his Official Capacity, Secretary, U.S. Department of Homeland Security; and

Todd Blanch, in his Official Capacity, Acting Attorney General of the United States;

Respondents-Defendants.

Case No.

A#: [redacted]

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

AND

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

INTRODUCTION

1. Petitioner Cristhian Bethzabel Gonzalez Portilla is a 36-year-old Mexican national who has lived in the United States for approximately 22 years — more than half of her life. She entered the United States at approximately age 14 and has built her entire adult life here. She is the mother of three United States citizen daughters, ages 12, 10, and 8, who depend on her entirely for their care. Her 10-year-old daughter requires ongoing medical treatment. Petitioner owns and operates her own housecleaning business and is an active member of her church community. She has no criminal history of any kind.
2. On April 2, 2026, Petitioner was driving on a Mesa, Arizona freeway when she was stopped by local police. During the stop, ICE officers arrived and took Petitioner into civil immigration custody. She has been detained at the Eloy Detention Center ever since, without any bond hearing, without any individualized custody determination, and without any judicial or neutral review of the lawfulness or necessity of her detention. Three United States citizen children — the youngest just eight years old — have been without their mother for every day of that detention.
3. The Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), purported to strip Immigration Judges of bond jurisdiction over persons charged as inadmissible under INA § 212, conflating § 212(a)(6)(A)(i) (entry without inspection) with § 235(b)(2)(A) (arriving aliens subject to expedited removal procedures). That decision has already been vacated as an unlawful APA action. *Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). Petitioner's INA § 212(a)(6)(A)(i) charge triggers IJ bond jurisdiction under 8 U.S.C. § 1226(a), and her continued detention without a bond hearing violates the Due Process Clause of the Fifth Amendment and the INA.
4. Petitioner respectfully requests: (1) a writ of habeas corpus ordering Respondents to immediately provide her with an individualized bond hearing before an Immigration Judge; (2) a temporary restraining order and preliminary injunction prohibiting

Respondents from transferring Petitioner out of this district pending resolution of this petition; and (3) all other relief the Court deems just and proper.

CUSTODY

5. Petitioner Cristhian Bethzabel Gonzalez Portilla is currently detained at the Eloy Detention Center, 1705 E. Hanna Rd., Eloy, AZ 85131, within the jurisdiction of this Court. She is held in the physical and legal custody of Respondent Eric Rokosky, Warden of Eloy Detention Center (CoreCivic). Rumsfeld v. Padilla, 542 U.S. 426, 434-35 (2004)

JURISDICTION

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (habeas corpus); and the Fifth Amendment to the United States Constitution. The Court may grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201–02, 28 U.S.C. § 2241, 5 U.S.C. §§ 705–06, and its inherent equitable powers. The Government has waived sovereign immunity pursuant to 5 U.S.C. § 702.
7. Habeas review under § 2241 is not displaced by INA § 1252 for challenges to the lawfulness of immigration detention, as distinct from challenges to orders of removal. *INS v. St. Cyr*, 533 U.S. 289, 314 (2001). Petitioner challenges her detention and the absence of a bond hearing — not the order of removal itself. This Court has jurisdiction.

REQUIREMENTS OF 28 U.S.C. § 2243

8. Pursuant to 28 U.S.C. § 2243, this Court must either grant the writ or issue an order directing Respondents to show cause "forthwith." The Great Writ affords a "*swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added); *see also Boumediene v. Bush*, 553 U.S. 723, 745 (2008).
9. If an order to show cause is issued, Respondents must file a return "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." 28 U.S.C. § 2243 (emphasis added). Habeas petitions are entitled to preferential, expeditious consideration. *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000).

VENUE

10. Venue is proper in the District of Arizona because Petitioner is physically detained within this district at the Eloy Detention Center, Eloy, Arizona. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004) (proper respondent is the immediate custodian and venue lies in the district of confinement).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

11. Exhaustion of administrative remedies is prudential, not jurisdictional, in § 2241 proceedings. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive exhaustion where "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, [or] irreparable injury will result." *Id.* Exhaustion is excused on two independent grounds.

12. First, exhaustion would be futile. The constitutional claims Petitioner raises — that due process requires an individualized bond hearing, and that her detention without any hearing violates the Fifth Amendment — are beyond the authority of ICE or the Immigration Court to adjudicate. *Reno v. Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 479 (1999); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000). The BIA cannot overrule its own precedents on constitutional grounds or order ICE to provide a bond hearing.

13. Second, exhaustion would cause irreparable harm. Every additional day of civil detention without a bond hearing constitutes an irreparable injury — loss of physical liberty cannot be remedied retroactively. *Hernandez*, 872 F.3d at 988. ICE has provided no indication it will reconsider Petitioner's custody absent court intervention. This Court should proceed directly to the merits.

PARTIES

Petitioner

14. Cristhian Bethzabel Gonzalez Portilla is a native and citizen of Mexico, born [redacted] She entered the United States in approximately 2004 at age 14 and has resided here

for approximately 22 years. She is currently detained at the Eloy Detention Center, 1705 E. Hanna Rd., Eloy, Arizona, under A-Number [redacted]

Respondents

15. Respondent Eric Rokosky is the Warden of Eloy Detention Center (CoreCivic) and is Petitioner's immediate legal custodian. Rumsfeld v. Padilla, 542 U.S. 426, 434-35 (2004)

16. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. He has nationwide authority and responsibility for the policies and practices of ICE, including those governing civil immigration detention.

17. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security. As Secretary, he is the ultimate legal custodian of persons in civil immigration detention and has supervisory authority over ICE pursuant to 8 U.S.C. § 1103(a) and the Homeland Security Act, § 402.

18. Respondent Todd Blanche is the Acting Attorney General of the United States. The Department of Justice, through the Executive Office for Immigration Review, oversees the immigration courts, including the immigration court in which Petitioner's removal proceedings are pending.

STATEMENT OF FACTS

A. Petitioner's Background and Deep Ties to the United States

19. Cristhian Bethzabel Gonzalez Portilla was born on [redacted], in Mexico. She entered the United States in approximately 2004 at approximately 14 years of age. She has been a member of U.S. communities for her entire adult life, approximately 22 years.

20. Petitioner is the mother of three United States citizen daughters: I[redacted] born [redacted] 2013 (age 12); J[redacted] born [redacted], 2015 (age 10); and X[redacted] born [redacted] 2017 (age 8). All three children reside in the United States and depend on Petitioner as their primary caregiver. Petitioner's aunt, Aide Keef, is a Lawful Permanent Resident.

21. Petitioner owns and operates her own housecleaning business, through which she has supported her three daughters. She is an active member of [redacted] Church in her community. She has no criminal history whatsoever.

22. Petitioner has never been deported or previously removed from the United States. She has never previously been detained by immigration authorities.

B. Circumstances of Arrest

23. On April 2, 2026, Petitioner was stopped by local police on a Mesa, Arizona freeway. During the stop, a ticket was issued. ICE officers arrived at the scene during the stop and, upon questioning Petitioner about her immigration status and determining she did not have documentation authorizing her presence, took her into custody.

24. Petitioner was given no advance notice of any immigration enforcement action. She was not the subject of any previously known ICE surveillance or enforcement action. Three children — her United States citizen daughters — were left without their primary caregiver as a result of this arrest.

25. ICE transferred Petitioner to the Eloy Detention Center, 1705 E. Hanna Rd., Eloy, AZ 85131. She has been detained there continuously since April 2, 2026.

C. Notice to Appear and Removal Proceedings

26. DHS issued a Notice to Appear (NTA). A hearing was scheduled before IJ Mabry III Williams on April 20, 2026 at 8:30 a.m. Petitioner's removal proceedings are in their earliest stage — no merits hearing has occurred, no order of removal has been issued, and no final action has been taken.

D. No Bond Hearing Has Been Held

27. As of the date of this petition, Petitioner has been detained for approximately 18 days. No bond hearing has been held. No individualized custody determination has been made by any neutral decisionmaker. No Immigration Judge has assessed Petitioner's flight risk or danger to the community. ICE has provided no articulated basis for concluding that Petitioner cannot be released on bond or conditions of supervision. IJs across Arizona are maintaining that they have no jurisdiction to hear bonds for EWI respondents like Petitioner.

28. No bond proceedings have been initiated by the Government. Petitioner's three United States citizen daughters — ages 12, 10, and 8 — remain in the care of a third party during

her continued detention. Her 10-year-old daughter, J[redacted] requires ongoing medical attention that has been disrupted by Petitioner's absence.

LEGAL BACKGROUND

A. The Right to a Bond Hearing Under INA § 1226(a)

29. Congress has authorized two distinct detention regimes for noncitizens in removal proceedings. Under 8 U.S.C. § 1226(a), the Government "may" detain a noncitizen pending a decision on removability, but the noncitizen is entitled to seek release on bond or conditional supervision before an Immigration Judge. Under 8 U.S.C. § 1226(c), certain noncitizens with criminal grounds of removability must be detained without bond. Under 8 U.S.C. § 1225(b), arriving aliens processed through expedited removal under INA § 235(b) are subject to a different detention regime with limited IJ review.

30. Petitioner is charged under INA § 212(a)(6)(A)(i) — as an alien "present in the United States without being admitted or paroled." This charge triggers the general § 1226(a) detention framework, which entitles Petitioner to an individualized bond hearing before an Immigration Judge. It does not invoke the § 1225(b) expedited removal framework, which applies to "arriving aliens" processed at the border under § 235(b)(2)(A).

31. This distinction is critical. "An alien present in the United States who has not been admitted" under § 212(a)(6)(A)(i) is a fundamentally different legal category from an "arriving alien" subject to § 235(b)(2)(A). Congress structured these provisions separately. Petitioner entered in approximately 2004 — over 22 years ago — and has been a member of U.S. communities continuously. She is not an arriving alien.

B. *Matter of Yajure Hurtado* Has Been Vacated

32. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals held that Immigration Judges lack bond jurisdiction over noncitizens charged as inadmissible under § 212, treating them as equivalent to arriving aliens subject to § 1225(b). This decision conflated legally distinct categories.

33. On February 18, 2026, the U.S. District Court for the Central District of California vacated *Yajure Hurtado* in its entirety as an arbitrary and capricious action under the

APA. *Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). The court held that the BIA's interpretation was an "identical, incorrect interpretation of law" and that INA § 212(a)(6)(A)(i) aliens — who are not arriving aliens — retain the right to an IJ bond hearing under 8 U.S.C. § 1226(a).

34. The vacatur of *Yajure Hurtado* restores the legal status quo that existed before the BIA issued that decision: IJs have full bond jurisdiction over noncitizens charged under § 212(a)(6)(A)(i), and those noncitizens are entitled to an individualized bond hearing as a matter of statute and constitutional due process.

C. Due Process Requires an Individualized Bond Hearing

35. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). "Freedom from imprisonment...lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Constitution "usually requires some kind of hearing before the State deprives a person of liberty." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).

36. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), due process is determined by balancing: (1) the private interest at stake; (2) the risk of erroneous deprivation given existing procedures and the value of added safeguards; and (3) the Government's interest, including any administrative burden. All three factors weigh in favor of a bond hearing here.

37. Petitioner's liberty interest is profound. She has been detained for approximately 18 days without any hearing. She is the primary caregiver of three United States citizen children, including a 10-year-old who requires ongoing medical treatment. She has lived in the United States for 22 years, owns her own business, and has no criminal history. The risk of erroneous deprivation is high where no neutral decisionmaker has assessed the basis for her continued detention. The Government's interest in maintaining detention of a woman with these community ties, without any hearing, where no evidence of dangerousness or extreme flight risk exists, is weak.

38. Prolonged civil detention without adequate procedural protections requires an individualized justification. *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 950 (9th Cir. 2008). Federal habeas jurisdiction exists to review detention and order release when that detention is unlawful. *Singh v. Holder*, 638 F.3d 1196, 1200–01 (9th Cir. 2011).

CLAIMS FOR RELIEF

COUNT ONE: Violation of INA § 1226(a) — Failure to Provide Bond Hearing

39. Petitioner realleges and incorporates all preceding paragraphs as if fully set forth herein.

40. Petitioner is charged under INA § 212(a)(6)(A)(i) as an alien present in the United States without admission or parole. This charge is governed by the § 1226(a) civil detention framework, which affords Petitioner the statutory right to seek release on bond before an Immigration Judge.

41. The BIA decision that purported to eliminate IJ bond jurisdiction for § 212(a)(6)(A)(i) noncitizens — *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) — has been vacated by federal court order. *Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). Respondents therefore have no legal authority to detain Petitioner without a bond hearing.

42. Respondents' continued detention of Petitioner without a bond hearing violates INA § 1226(a), 8 U.S.C. § 1226(a), and the regulations implementing that statute. Petitioner is entitled to an individualized bond hearing before an Immigration Judge.

COUNT TWO: Violation of the Fifth Amendment — Procedural Due Process

43. Petitioner realleges and incorporates all preceding paragraphs as if fully set forth herein.

44. Petitioner has a constitutionally protected liberty interest in freedom from civil imprisonment. *Zadvydas*, 533 U.S. at 690; *Foucha*, 504 U.S. at 80. The Fifth Amendment's Due Process Clause applies to all persons in the United States, including noncitizens.

45. Respondents have deprived Petitioner of her liberty without any hearing before a neutral decisionmaker, without any individualized finding of flight risk or danger to the

community, and without any assessment of whether conditions of supervision could reasonably assure her appearance. This deprivation of liberty without process violates the Fifth Amendment.

46. The *Mathews* balance compels relief: Petitioner's liberty interest is profound and concrete; the risk of erroneous deprivation is high where no hearing has ever occurred and no individualized determination has been made; and the Government's interest in maintaining detention of a 22-year resident of the United States — the sole caregiver of three U.S. citizen children, with no criminal history — without any process whatsoever, is insufficient to override constitutional requirements.

47. Petitioner is entitled to an immediate individualized custody determination before a neutral decisionmaker with authority to order her release.

COUNT THREE: Violation of the Administrative Procedure Act — Arbitrary Application of Yajure Hurtado

48. Petitioner realleges and incorporates all preceding paragraphs as if fully set forth herein.

49. To the extent Respondents are applying or relying upon *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) as authority for detaining Petitioner without a bond hearing, such reliance is arbitrary and capricious under the APA, 5 U.S.C. § 706(2)(A) and (C). *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983). *Yajure Hurtado* has been vacated by a federal court as an unlawful agency action. An agency cannot rely on a vacated decision as legal authority.

50. Respondents' failure to provide Petitioner with a bond hearing in the wake of the vacatur of *Yajure Hurtado* constitutes final agency action — the ongoing fact of detention — that is arbitrary, capricious, and contrary to law. This Court has authority to set aside unlawful agency action under 5 U.S.C. § 706 and 28 U.S.C. § 2241. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024) (courts exercise independent judgment in interpreting statutes).

PRAYER FOR RELIEF

WHEREFORE, Petitioner Cristhian Bethzabel Gonzalez Portilla respectfully prays that this Court:

a) Assume jurisdiction over this Petition pursuant to 28 U.S.C. § 2241;

b) Issue a Temporary Restraining Order pursuant to Fed. R. Civ. P. 65 and Winter v. Natural Resources Defense Council, 555 U.S. 7 (2008), immediately preventing Respondents from transferring Petitioner outside the District of Arizona pending resolution of this Petition;

c) Declare that Petitioner's continued civil detention without an individualized bond hearing violates INA § 1226(a), the Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act;

d) Grant the Petition for Writ of Habeas Corpus and order Respondents to immediately provide Petitioner with an individualized bond hearing before an Immigration Judge with full authority to set bond or release on conditions of supervision under 8 U.S.C. § 1226(a);

e) Order Respondents to produce all records in their possession relating to Petitioner's detention and any custody determinations;

f) Retain jurisdiction over this matter to ensure compliance with this Court's orders;

g) Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

h) Grant such other and further relief as this Court may deem just, equitable, and proper.

Dated: April 22, 2026

Respectfully submitted,

NEW FRONTIER IMMIGRATION LAW

/s/ Hillary Walsh

Hillary Walsh
Attorney for Petitioner-Plaintiff

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed April 22, 2026, in Phoenix, AZ.

/s/ Hillary Walsh
Hillary Walsh
Attorney for Petitioner