UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Maria G. Maillazhungo Saeteros, and Maria M. Mayllazhungo Saeteros, as Next Friend,

Petitioner,

v.

WARDEN, in his official capacity as Warden of the U.S. Border Patrol Station at Wellesley Island; THOMAS P. BROPHY, in his official capacity as Field Office Director for the U.S. Immigration and Customs Enforcement and the Enforcement and Removal Operations office in Buffalo, New York; MARCOS CHARLES, in his official capacity as Executive Associate Director, Enforcement and Removal Operations, TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; MARKWAYNE MULLIN, in his official capacity as Secretary of U.S. Department of Homeland Security; and ATTORNEY GENERAL, in his official capacity as Attorney General,

Respondents.

Civil Action No.
9:26-cv-01220-BKS

RESPONDENTS' RESPONSE TO PETITION
FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

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PRELIMINARY STATEMENT

This habeas petition should be denied because it is premised on a fundamental misunderstanding of the circumstances surrounding Petitioner's detention and the statutory authority under which she is being held. Petitioner alleges that Immigration and Customs Enforcement ("ICE") unlawfully detained her under 8 U.S.C. § 1225 and denied her an individualized custody determination. The record demonstrates otherwise: Petitioner is lawfully detained pursuant to 8 U.S.C. § 1226(a), which authorizes the discretionary detention of noncitizens during the pendency of removal proceedings and permits release on bond following an individualized custody determination. The agency is in the process of scheduling Petitioner's bond hearing.

On June 10, 2026, Petitioner was encountered during a targeted enforcement operation conducted by United States Customs and Border Protection ("CBP"). After the vehicle in which she was traveling was stopped, Petitioner fled on foot and was subsequently apprehended. Due to Petitioner's flight from law enforcement, the arresting CBP agent conducted an individualized assessment of the circumstances and reasonably determined that Petitioner presented a flight risk and was likely to escape before a warrant could be obtained. Accordingly, agents lawfully took Petitioner into custody pursuant to 8 U.S.C. § 1357(a)(2), and she remains lawfully detained pursuant to 8 U.S.C. § 1226(a).

Petitioner's contention that she was denied an individualized custody determination is likewise incorrect. On June 10, 2026, Petitioner was advised of her right to seek review of her custody determination before an Immigration Judge, and she indicated that she wished to have her custody determination reviewed by an Immigration Judge. Petitioner is currently awaiting the scheduling of her bond hearing.

Because Petitioner is detained pursuant to 8 U.S.C. § 1226(a), and because she has been afforded the opportunity to obtain the individualized custody determination she seeks and will soon be afforded a bond hearing, the Petition rests on incorrect factual and legal premises and should be denied.

FACTUAL BACKGROUND

On June 10, 2026, CBP agents assigned to the Wellesley Island Border Patrol Station conducted a targeted enforcement operation in Watertown, New York. Declaration of Daniel Pecora ("CBP Agent Decl.") ¶ 5, Ex. A at 3. Prior to the operation, CBP's agents identified a vehicle associated with individuals suspected of unlawfully residing and working in the United States. *Id.*

At approximately 7:05 a.m., the Border Patrol Agent in Charge observed the identified vehicle depart a hotel parking lot in Watertown, New York. CBP Agent Decl. ¶ 6, Ex. A at 3. The agent initiated a vehicle stop shortly thereafter. *Id.*

Immediately upon the vehicle stopping, four occupants exited and fled on foot in different directions. CBP Agent Decl. ¶ 7, Ex. A at 3. Additional agents, including K9, responded and conducted a coordinated search. *Id.* Petitioner and one other occupant were subsequently apprehended; the remaining two occupants were not located. *Id.*

Following her apprehension, Petitioner was identified as a citizen of Ecuador and was unable to produce documentation demonstrating lawful status in the United States. CBP Agent Decl. ¶ 8, Ex. A at 3. Petitioner admitted that she was present in the United States without lawful authorization. CBP Agent Decl. ¶ 9, Ex. A at 3. Based on Petitioner's attempt to flee from law enforcement and the circumstances of her apprehension, agents determined that she presented a flight risk and took her into custody. CBP Agent Decl. ¶ 10, Ex. A at 3.

Petitioner entered the United States without inspection on or about May 30, 2019. CBP Agent Decl. ¶ 4, Ex. A at 1. She was previously released on her own recognizance before her re-apprehension on June 10, 2026. CBP Agent Decl. ¶ 4, Ex. A at 4.

On June 10, 2026, Petitioner was served with a Notice of Rights and Request for Disposition, see CBP Agent Decl. ¶ 11, Ex. A at 7; a Notice to Appear, see CBP Agent Decl. ¶ 11, Ex. A at 8-10; and a Notice of Custody Determination (Form I-286), see CBP Agent Decl. ¶ 11, Ex. A at 11, advising her of her custody status and her right to seek a bond hearing before an Immigration Judge. Proceedings to schedule a bond hearing are pending.

Petitioner is currently detained at the Wellesley Island Border Patrol Station in Wellesley Island, New York. CBP Agent Decl. ¶ 12. Petitioner is currently subject to removal proceedings. Ex. A at 8. Petitioner does not address her own immigration status but states that her children have approved Form I-360 petitions based on Special Immigrant Juvenile Status (SIJS).[1] Dkt. No. 1 at 6.

Maria M. Mayllazhungo Saeteros, *pro se* and as next friend to her sister, Petitioner Maria G. Maillazhungo Saeteros, filed this petition for writ of habeas corpus on June 12, 2026, as well as an emergency motion to prevent transfer.[2] *See* Dkt. 1. The Court enjoined Respondents from

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[1] Under 8 U.S.C. § 1367, Respondents are prohibited from confirming or denying information relating to protected immigration filings with USCIS absent a waiver. *See* 8 U.S.C. § 1367(a).

[2] Maria G. Maillazhungo Saeteros pursues this case as next friend of Petitioner. Aside from alleging that she is Petitioner's sister, she provides no basis on which to proceed as a next friend. Notably, Ms. Saeteros has not established why Petitioner is "unable . . . to seek relief" such as, for example, "because of mental incompetence or inaccessibility." *Whitmore v. Arkansas*, 495 U.S. 149, 162 (1990). Petitioner bears this burden, and failure to carry it can result in dismissal. *Id.*; *see also Tarver v. Superintendent*, No. 9:20-CV-0108 (GTS), 2020 WL 586797, at *2 (N.D.N.Y. Feb. 6, 2020) (requiring "concrete evidence," including "documentary proof," of inmate's inability to advocate for himself in habeas proceedings). The Court has directed Ms. Saeteros to provide adequate explanation to establish "next friend" standing in her reply. *See* Dkt. 2 at 2.

moving Petitioner out of this district during the pendency of the action and ordered a response to the Petition on or before June 16, 2026. *See* Dkt. 2.

STANDARD OF REVIEW

Under 28 U.S.C. § 2241(c)(3), the writ of habeas corpus extends only to a person who is "in custody in violation of the Constitution or laws or treaties of the United States." A district court may grant habeas relief only "within [its] respective jurisdiction[]." 28 U.S.C. § 2241(a). As in other civil proceedings, a habeas petitioner bears the burden of proving by a preponderance of the evidence that his detention is unlawful. *Skaftouros v United States*, 667 F.3d 144, 158 (2d Cir. 2011).

ARGUMENT

I. PETITIONER WAS LAWFULLY DETAINED WITHOUT A WARRANT UNDER 8 U.S.C. § 1357(a)(2) AND IS RECEIVING ALL REQUIRED DUE PROCESS

8 U.S.C. § 1357(a)(2) authorizes designated immigration officers to arrest a noncitizen without a warrant where the officer has "reason to believe" that the individual is in violation of the immigration laws and is likely to escape before a warrant can be obtained. 8 U.S.C. § 1357(a)(2); *see also* 8 C.F.R. § 287.8(c)(2)(ii). The statute sets out two requirements—removability and risk of flight—both assessed under the totality of the circumstances. The Second Circuit has upheld warrantless immigration arrests where officers reasonably believe both statutory prongs are satisfied. *Ojeda-Vinales v. Immigr. & Naturalization Serv.*, 523 F.2d 286, 287–88 (2d Cir. 1975); *Contreras v. United States*, 672 F.2d 307, 309–10 (2d Cir. 1982) (recognizing that clear evidence of removability supports a reasonable inference of likelihood of escape for purposes of warrantless immigration arrest authority).

Those statutory requirements were satisfied here. CBP's agents identified a vehicle associated with individuals suspected of unlawfully residing and working in the United States.

CBP Agent Decl. ¶ 5, Ex. A at 3. Agents located the vehicle in Watertown, New York, and conducted a lawful vehicle stop. CBP Agent Decl. ¶ 6, Ex. A at 3. Immediately upon the stop, all four occupants, including Petitioner, exited the vehicle and fled on foot in different directions. CBP Agent Decl. ¶ 7, Ex. A at 3.

Petitioner was apprehended after a coordinated search. CBP Agent Decl. ¶ 7, Ex. A at 3. Following apprehension, she was identified as a citizen of Ecuador, was unable to produce documentation establishing lawful status, and admitted that she was present in the United States without authorization. CBP Agent Decl. ¶ 8, Ex. A at 3. Agency records further confirmed that Petitioner entered the United States without inspection on or about May 30, 2019 and was released on her own recognizance. CBP Agent Decl. ¶ 4, Ex. A at 4.

These facts provided ample basis to conclude that Petitioner was removable and posed a substantial risk of flight. Her immediate, unprovoked flight from a lawful stop constituted strong, objective evidence of evasive intent and escape risk. *See Illinois v. Wardlow*, 528 U.S. 119, 124 (2000) (recognizing headlong flight as "the consummate act of evasion").

Section 1357(a)(2) expressly permits arrest without a warrant where officers have reason to believe both removability and likelihood of escape prior to issuance of a warrant. Accordingly, under the totality of the circumstances—including pre-operational targeting intelligence, observation of the identified vehicle, coordinated flight of all occupants upon a lawful stop, Petitioner's apprehension, her lack of lawful status, her admission of unlawful presence, and corroborating immigration records—officers had reason to believe Petitioner was removable and likely to escape before a warrant could be obtained. *See Ojeda-Vinales*, 523 F.2d at 287–88. The warrantless arrest was therefore authorized under 8 U.S.C. § 1357(a)(2), and Petitioner is lawfully detained pursuant to 8 U.S.C. § 1226(a).

II. PETITIONER'S CONTINUED DETENTION FALLS UNDER 8 U.S.C. § 1226(a) AND PETITIONER IS RECEIVING ALL REQUIRED DUE PROCESS

Petitioner's continued detention is authorized under 8 U.S.C. § 1226(a), which provides the Attorney General with discretionary authority to detain an alien pending a decision on removability. 8 U.S.C. § 1226(a). Section 1226(a) further authorizes release on bond or conditional parole following an individualized custody determination, reflecting Congress's intent that detention in this posture be governed by case-specific assessments of flight risk and danger to the community.

The Second Circuit has recently held that individuals present in the United States after entry without inspection and not apprehended at or near the border are detained under § 1226(a), not § 1225(b)(2)(A), and are therefore entitled to discretionary custody review. Barbosa *da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026). In accordance with that holding, § 1226(a) accordingly governs detention for such individuals, as here, and provides the statutory framework for bond eligibility and individualized custody determinations. *Id.*

Detention under § 1226(a) includes procedural safeguards designed to ensure due process, including the right to seek an individualized bond hearing before an immigration judge. *See* 8 C.F.R. §§ 236.1(d), 1236.1(d). These regulations implement the statutory scheme by requiring an individualized assessment of whether release is warranted based on flight risk and danger.

Here, Petitioner has been afforded the opportunity to request a bond hearing, which she has done, and that hearing is currently in the process of being scheduled. CBP Agent Decl. ¶ 11. The Second Circuit has recognized that § 1226(a) contemplates such individualized bond proceedings as the mechanism by which custody determinations are made. *Barbosa da Cunha*, 175 F.4th 61. The availability of this process satisfies the procedural framework required under § 1226(a), as

custody decisions are to be made through individualized review by an immigration judge rather than automatic detention or release.

Accordingly, Petitioner's request for relief premised on the absence of a bond hearing fails because she has already been afforded the opportunity to request such a hearing, which she has exercised, and the hearing is currently in the process of being scheduled. CBP Agent Decl. ¶ 11.

Because § 1226(a) requires only the availability of an individualized custody determination through bond proceedings, not immediate adjudication upon request, there is no present statutory or constitutional violation. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d), 1236.1(d). Petitioner is therefore receiving the process required by law, and her claim is effectively premised on relief that is already being provided through the statutory framework.

CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court deny the Petition for a Writ of Habeas Corpus and grant such other and further relief as the Court deems fair, just, and equitable.

Dated: June 16, 2026

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