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**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF TEXAS**
**SAN ANTONIO DIVISION**

**MIRTA ADILENE ESPINOZA-GUERRERO**

*Petitioner*,

vs.

**MARKWAYNE MULLIN,**
Secretary of the United States Department of Homeland Security;

**TODD BLANCHE,**
Acting United States Attorney General;

**TODD M. LYONS,**
Acting Director of the United States Immigration and Customs Enforcement;

**MIGUEL VERGARA,**
Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations;

**BOBBY THOMPSON,**
Warden, South Texas ICE Processing Center;

*Respondents.*

Case No. 5:26-cv-4198

**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

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

1. Petitioner, Mirta Adilene Espinoza-Guerrero ("Petitioner" or "Ms. Espinoza"), by and through undersigned counsel, Maria D. Castillo of the Law Office of Rafael J. Borras, respectfully petitions this Honorable Court for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2241 to challenge her ongoing and unlawful civil immigration detention by the United States Department of Homeland Security ("DHS"). Petitioner is a Mexican woman detained at the South Texas ICE Processing Center, located at 566 Veterans Drive, Pearsall, Texas 78061, within the Western District of Texas. *See* Exh. A, ICE Detainee Locator.

2. Petitioner entered the United States on or about December 25, 2004, near Brownsville, Texas, without being admitted or paroled. *See* Exh. B, NTA. On May 7, 2025, Immigration and Customs Enforcement ("ICE") took custody of Petitioner and placed her in immigration detention while her full removal proceedings under section 240 of the Immigration and Nationality Act ("INA") remain pending. She has now been detained continuously for more than thirteen months.

3. On September 15, 2025, an Immigration Judge deemed Petitioner's pro se application for cancellation of removal under INA § 240A(b)(1) abandoned based solely on nonpayment of a $1,600 filing fee, the amount of which was disclosed to her for the first time at that same hearing, and ordered her removed. Petitioner, who appeared pro se at every hearing, timely appealed on October 14, 2025. Her appeal is fully briefed and pending before the Board of Immigration Appeals ("BIA"). *See* Exh. C, Notice of Appeal; Exh. D, BIA Briefing Schedule and Brief. Her removal order is not administratively final, and her removal is not imminent.

4. Throughout her detention, Petitioner has suffered from a serious and extensively documented medical condition, scar endometriosis with superimposed infection, for which facility medical care has been substantially delayed and inadequate. Surgery recommended by hospital physicians in July 2025 was not performed until several months later. Her post-operative care contravened her physicians' discharge orders, her surgical wound reopened twice, her written requests for help went unanswered, the results of biopsies taken in connection with her surgery have not been disclosed to her, and she has received minimal medical attention since February 2026. *See* Exh. E, Medical Records; Exh. F, Petitioner's Letter to the Immigration Court.

5. DHS has taken the position, based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and subsequent agency guidance, that Petitioner is categorically ineligible for any custody determination before an immigration judge and may be detained for the duration of her removal proceedings, including her appeal, absent discretionary parole.[1]

6. As a result of this categorical denial of custody review, Petitioner faces prolonged and potentially indefinite civil detention without any meaningful opportunity for an individualized determination of whether her continued confinement is necessary or lawful. In more than thirteen months of detention, no tribunal, court, or official has ever conducted any neutral, individualized assessment of Petitioner's danger to the community, risk of flight, or suitability for less restrictive alternatives to detention.

7. Petitioner's continued detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment. DHS's reliance on a categorical jurisdictional bar has resulted in civil confinement without adequate procedural

[1] U.S. Immigration and Customs Enforcement, Interim Guidance Regarding Civil Immigration Detention Authority (July 8, 2025). *See* Exh. G.

safeguards or meaningful judicial review, while inflicting documented and ongoing harm to Petitioner's health.

8. Petitioner seeks habeas relief ordering her immediate release from ICE custody. For the foregoing reasons, the Court should grant the writ and restore Petitioner's liberty.

## FACTUAL BACKGROUND

9. Petitioner, Mirta Adilene Espinoza-Guerrero, entered the United States on or about December 25, 2004. She has resided continuously in San Antonio, Texas, for more than twenty-one years. During that time she established deep roots in her community and gave birth to four United States citizen children: Ashley (age 19), Robert (age 18), [redacted] (age 15), and [redacted] (age 10). All four children were born in Texas, have lived their entire lives in San Antonio, and were enrolled in the Harlandale Independent School District.

10. In approximately March 2025, Petitioner came into contact with law enforcement following a domestic dispute at her home; a neighbor called the police. The resulting charge was dismissed and no charges resulted. Petitioner was transferred to ICE custody on May 7, 2025, and has remained detained at the South Texas ICE Processing Center in Pearsall, Texas, ever since.

11. A Notice to Appear was issued and personally served on Petitioner on July 24, 2014. The Notice to Appear did not specify the date or time of any hearing. Removal proceedings before the Pearsall Immigration Court followed Petitioner's 2025 apprehension. Petitioner appeared pro se at every hearing: an initial master calendar hearing on July 2, 2025, at which the Immigration Judge advised her of potential eligibility for cancellation of removal; a master calendar hearing on August 4, 2025; and an individual hearing on September 15, 2025. At the September 15 hearing, the Immigration Judge disclosed for

the first time that the filing fee for Petitioner's application was $1,600, found the application abandoned for nonpayment, denied Petitioner's requests for additional time, and ordered her removed. DHS waived appeal and confirmed it was asserting no bars to relief. Petitioner timely filed a pro se Notice of Appeal on October 14, 2025. The BIA issued a briefing schedule on May 20, 2026, and Petitioner's brief was filed in June 2026. The appeal remains pending.

12. Petitioner's appeal presents substantial grounds for relief. It challenges a removal order entered on a procedural default, without any merits adjudication, against a detained, indigent, and unrepresented respondent who was never advised of the fee amount, the mechanism for payment from detention, or the availability of a fee waiver. On remand, Petitioner presents a colorable claim for cancellation of removal based on more than twenty-one years of continuous presence, good moral character, and exceptional and extremely unusual hardship to her four qualifying United States citizen children.

13. Petitioner's detention has been marked by serious and documented medical neglect. Petitioner reported gynecological and abdominal symptoms to facility staff immediately upon her detention in May 2025, yet approximately two months passed before she was seen by a physician. On June 26, 2025, an ultrasound at Frio Regional Hospital identified a complex fluid collection at the site of Petitioner's prior cesarean section scar, with findings favoring an infected hematoma or abscess. On July 9 and 10, 2025, Petitioner was admitted to University Hospital in San Antonio, where CT imaging identified a five-centimeter soft tissue lesion in the umbilical region consistent with scar endometriosis, with a rim-enhancing focus suggesting superimposed infection. The

Emergency General Surgery service recommended tissue sampling and potential surgical intervention. *See* Exh. E, Medical Records.

14. Before her surgery, Petitioner experienced recurring abdominal bleeding and at times vomited blood. In a letter received by the Immigration Court on September 2, 2025, Petitioner described her open surgical site, palpable abdominal mass, and recurrent bleeding, explained that facility medical staff had provided only ibuprofen, and pleaded for release so she could obtain treatment. *See* Exh. F. Surgery was not performed until several months after hospital physicians recommended intervention, and considerably longer after she first reported her symptoms.

15. Petitioner's surgery, which included biopsies, required a four-day hospitalization. She was returned to the detention facility on a Saturday and had to be readmitted to the hospital the following Monday for an additional three days, followed by three more days in the facility's medical unit. She was discharged with a wound vacuum and physician orders directing that her gauze dressing be removed before showering. Facility staff did not comply; Petitioner was made to shower with the gauze in place, leaving the dressing wet against her open wound and delaying healing. Her surgical wound reopened twice. Her written requests for help went unanswered. She experienced chills and trembling consistent with infection. Her wound took approximately two months to heal and was never properly cleaned by facility staff, and she continues to experience pain at the site.

16. Petitioner was told that the results of her two biopsies would be available within four to six weeks. More than six months later, no results have been provided to her. She continues to experience abnormal bleeding and significant leg pain. She has not been seen by a physician since February 2026. To request medical attention at the facility,

detainees must submit three separate sign-up requests before being seen or receiving a medication refill.

17. Petitioner has no known disciplinary history in custody and has complied with all requirements imposed by immigration authorities. Petitioner has never received a custody determination of any kind. She did not request a bond hearing before the Immigration Court because, under *Matter of Yajure Hurtado* and binding agency guidance, any such request would have been denied for lack of jurisdiction. DHS has likewise never conducted any individualized custody review, considered her for parole, or assessed less restrictive alternatives to detention, notwithstanding her documented medical condition. Her continued detention is not based on any individualized finding of danger or flight risk, but rather on a categorical policy that denies her access to any custody review. Absent judicial intervention, Petitioner faces continued detention throughout her appeal proceedings, without any individualized assessment of flight risk or danger, and without adequate medical care.

## JURISDICTION

18. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq*. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of her ongoing civil immigration detention and seeks relief that is within the traditional scope of *habeas corpus*. Jurisdiction also lies under 28 U.S.C. § 1331, as this Petition raises federal questions arising under the Constitution, laws, and treaties of the United States.

19. The 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. Congress has preserved judicial review of challenges to immigration detention, including claims raising statutory and constitutional questions. *See, e.g.*, *Nielsen v. Preap*, 139 S. Ct. 954, 961–62 (2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (distinguishing reviewable legal and constitutional claims from unreviewable discretionary determinations under 8 U.S.C. § 1226(e)).

20. Federal district courts have jurisdiction to hear *habeas corpus* claims brought by noncitizens challenging the lawfulness of their immigration detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over challenges to immigration detention); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (same). That jurisdiction extends to claims alleging that detention exceeds statutory authority, violates constitutional guarantees, or results from agency action that is arbitrary, capricious, or contrary to law.

21. Although certain provisions of the INA limit judicial review of discretionary custody determinations, *see* 8 U.S.C. § 1226(e), those provisions do not preclude *habeas* review of constitutional claims, questions of law, or challenges to the legal basis for detention itself. Petitioner does not ask this Court to review or second-guess any discretionary bond decision. Rather, she challenges Respondents' authority to continue detaining Petitioner without any individualized custody determination, and the constitutionality of detention without meaningful review. Such claims fall squarely within the scope of *habeas* review.

22. Respondents may be expected to argue that various INA provisions deprive this Court of jurisdiction to consider Petitioner's claims. Courts in this Division and throughout this District have consistently rejected those arguments. In *Granados v. Noem*, No. SA-25-CA-1464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025), this Division

addressed and rejected each jurisdiction-stripping provision the government commonly invokes, holding that 8 U.S.C. §§ 1252(g) and 1252(b)(9) strip jurisdiction only over challenges to removal proceedings, not over challenges to detention; that § 1225(b)(4) addresses challenges by immigration officers to favorable admissions decisions, not detention; and that § 1226(e) bars review of discretionary bond decisions but not challenges to the legal basis for detention itself. *See also Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 672–76 (W.D. Tex. 2025) (same); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-0773-JKP, 2025 WL 2976923, at *2 (W.D. Tex. Oct. 21, 2025) (rejecting §§ 1252(g), 1252(a)(5), 1252(b)(9), and 1226(e) as grounds to strip jurisdiction over detention claims).

23. Because Petitioner has no administrative mechanism through which to challenge the legality of her detention, *habeas corpus* is the only effective means of review. Any interpretation of the INA that would preclude such review would raise serious concerns under the Suspension Clause. *See INS v. St. Cyr*, 533 U.S. 289, 300–01 (2001); *Boumediene v. Bush*, 553 U.S. 723, 771 (2008).

24. No petition for writ of *habeas corpus* has previously been filed in any court regarding Petitioner.

**VENUE**

25. Venue is proper in the Western District of Texas under 28 U.S.C. § 1391, because at least one Respondent is in this District, Petitioner is detained in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. Venue is also proper under 28 U.S.C. § 2243 because the immediate custodians of Petitioner reside in this District.

## PARTIES

26. Petitioner, Mirta Adilene Espinoza-Guerrero, is a citizen of Mexico. She entered the United States on or about December 25, 2004, without inspection, and has resided here continuously for more than twenty-one years. Prior to her detention, she lived in San Antonio, Texas. Petitioner is currently detained at the South Texas ICE Processing Center in Pearsall, Texas.

27. Respondent Markwayne Mullin is named in his official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"). DHS is the department charged with administering and enforcing federal immigration laws. Secretary Mullin is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement ("ICE") and is a legal custodian of Petitioner.

28. Respondent Todd Blanche is named in his official capacity as Acting Attorney General of the United States. He is responsible for the administration of the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), including policies that bear on immigration judges' jurisdiction over custody and appeals.

29. Respondent Todd M. Lyons is named in his official capacity as Acting Director of ICE. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.

30. Respondent Miguel Vergara is named in his official capacity as Field Office Director of the San Antonio ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

31. Respondent Bobby Thompson is named in his official capacity as Warden of the South Texas ICE Processing Center in Pearsall, Texas. He has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.

32. Each Respondent is sued in his official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

## EXHAUSTION OF ADMINISTRATIVE REMEDIES

33. Petitioner has no available administrative remedies to exhaust, and any attempt to pursue administrative relief would be futile.

34. Under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), Immigration Judges lack authority to hear bond requests or to grant bond to noncitizens who are present in the United States without admission. The Pearsall Immigration Court applies that precedent categorically and denies jurisdiction over bond requests filed by similarly situated detainees. A bond request by Petitioner would therefore be summarily denied for lack of jurisdiction, and the Board of Immigration Appeals likewise lacks jurisdiction to review custody determinations where no bond hearing may be held. The law does not require the performance of a futile act as a precondition to habeas review.

35. On or about January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." Immigration judges are instructed to treat the BIA's decision in *Matter of Yajure Hurtado* as binding precedent. EOIR guidance further states that a "declaratory judgment" is not binding and lacks authority to compel specific action.[2]

[2] *See* Practice Alert: EOIR Issues Nationwide Guidance on Maldonado Bautista (Jan. 16, 2026), https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista.

36. On February 6, 2026, the Fifth Circuit confirmed in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), that, as a statutory matter, immigration judges lack jurisdiction to conduct bond hearings for noncitizens detained under 8 U.S.C. § 1225(b)(2)(A). Under these circumstances, no administrative body within EOIR has authority to provide the relief sought.

37. DHS has likewise provided Petitioner no custody process. In more than thirteen months, ICE has conducted no individualized custody review. Petitioner's attorney of record, Rafael J. Borras, submitted a written request for humanitarian parole on Petitioner's behalf on July 1, 2026, citing her documented medical condition and family ties. See Exh. H, Parole Request. As of the filing of this Petition, ICE has not responded to that request in any form, has not granted or denied it, and has not scheduled any review. This is consistent with counsel's experience that ICE has, as a general practice, not responded to written parole requests submitted on behalf of similarly situated detainees over the past year. Petitioner has therefore been categorically denied access to any administrative custody review, and no adequate alternative remedy exists; exhaustion is either satisfied or excused as futile. A writ of habeas corpus is the sole avenue to vindicate Petitioner's constitutional, statutory, and regulatory rights and to restore her liberty.

## LEGAL FRAMEWORK

38. The INA establishes multiple detention authorities governing noncitizens in removal proceedings, depending on procedural posture and statutory classification. These detention provisions operate against the backdrop of constitutional limitations on civil confinement and long-recognized principles of individualized custody review.

39. First, INA § 236(a), 8 U.S.C. § 1226(a), authorizes the discretionary detention of noncitizens placed in full removal proceedings under INA § 240, 8 U.S.C. § 1229a. Historically, individuals in section 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

40. Second, INA § 235(b), 8 U.S.C. § 1225(b), governs the detention of noncitizens classified as "applicants for admission," including individuals subject to expedited removal under § 1225(b)(1) and those referred to full removal proceedings under § 1225(b)(2). Section 1225(b)(2)(A) provides that certain applicants for admission "shall be detained" pending removal proceedings, subject to limited parole authority.

41. Finally, the Act also provides for the detention of noncitizens who have previously been ordered removed, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

42. Following IIRIRA's enactment, the Executive Office for Immigration Review promulgated regulations explaining that, as a general matter, noncitizens who entered without inspection and were placed in § 240 removal proceedings were detained under § 1226(a), not § 1225(b). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens who entered without inspection, unless they were subject to some other detention authority, received bond hearings. This practice was also consistent with pre-IIRIRA procedure, in which noncitizens not deemed "arriving" were entitled to a custody hearing before an

Immigration Judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that section 1226(a) simply "restates" the detention authority previously found at section 1252(a)).

43. On July 8, 2025, DHS issued a memo to all employees of ICE stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA).[8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226], is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." The memo further stated DHS's new position with regard to custody determinations as follows:

> An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated.
>
> The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).
>
> 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. *See* Exh. G, ICE Interim Guidance.

44. As a result, DHS now considers all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including longtime U.S. residents, to be subject to mandatory detention under § 1225(b) and ineligible for release on bond. Conversely, according to DHS, "[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." *Id.*

45. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that, based on the plain language of 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to noncitizens who are present in the United States without admission.

46. On February 6, 2026, the United States Court of Appeals for the Fifth Circuit endorsed that statutory interpretation in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 2026 WL 323330, at *8 (5th Cir. Feb. 6, 2026), foreclosing purely statutory claims to bond hearings under § 1226(a) within this Circuit.

47. However, neither *Yajure Hurtado* nor *Buenrostro-Mendez* addressed, much less resolved, the constitutional, administrative, or procedural claims presented here. As the Supreme Court made clear in *Jennings v. Rodriguez*, 583 U.S. 281, 302–03 (2018), the absence of a statutory bond entitlement does not eliminate constitutional constraints on detention or foreclose *habeas* review.

48. Courts within Texas have consistently recognized that *Buenrostro-Mendez* does not foreclose constitutional challenges to detention and instead confirm that constitutional challenges remain viable, and have continued to grant habeas relief where detention occurs without meaningful custody review. *See, e.g.*, *Gomez-Gonzalez v. Vergara*, No. 5:26-CV-598-DAE (W.D. Tex. Feb. 27, 2026) (granting habeas for petitioner detained at the South Texas Detention Facility in Pearsall on due process grounds); *Pulido v. Noem*, No. SA-26-CV-01282-FB, slip op. at 2–4 (W.D. Tex. Mar. 24, 2026); *Marceau v. Noem*, No. 3:26-cv-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026);* Lopez-Arevelo v. Ripa, *801 F. Supp. 3d 668, 685–87 (W.D. Tex. 2025);* Ribero-Ardila v. Rodriguez, *No. 5:26-CV-0689-JKP (W.D. Tex. Apr. 13, 2026) (granting habeas;* Buenrostro-Mendez *forecloses only statutory claims; due process claim survives);* Longoria Mendoza v. Noem, *No. 5:26-CV-0728-JKP, 2026 WL 809441, at* 6–10 (W.D. Tex. Feb. 26, 2026) (same); *Aliaga Zamora v. Bondi*, No. SA-26-CA-00447-XR, 2026 WL 693054, at *13 (W.D. Tex. Mar. 10, 2026) (individualized hearing "ensures the purpose of detention is not punitive");* Aldana v. Collins, *No. 1:26-CV-335-RP, 2026 WL 673827, at* 4 (W.D. Tex. Mar. 9, 2026); *Hassen v. Noem*, No. 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026); *Clemente Ceballos v. Garite*, No. 3:26-cv-00312-DB (W.D. Tex. Feb. 10, 2026).

49. Accordingly, even where § 1225(b)(2)(A) is assumed to govern detention, continued civil confinement remains subject to the Due Process Clause. Detention that becomes prolonged, indefinite, arbitrary, or wholly insulated from meaningful review exceeds the lawful authority conferred by Congress and violates fundamental constitutional guarantees.

**THE FIFTH CIRCUIT'S FEBRUARY 6, 2026, DECISION IN *BUENROSTRO-MENDEZ v. BONDI* FORECLOSES PETITIONER'S PURELY STATUTORY CLAIM TO A BOND HEARING UNDER 8 U.S.C. § 1226(a), BUT DOES NOT PRECLUDE HABEAS RELIEF ON CONSTITUTIONAL AND OTHER GROUNDS**

50. *Buenrostro-Mendez* forecloses Petitioner's purely statutory entitlement theory under § 1226(a), but it does not deprive this Court of habeas jurisdiction or resolve Petitioner's independent constitutional and other claims.

51. On February 6, 2026, a panel of the United States Court of Appeals for the Fifth Circuit issued its published opinion in *Buenrostro-Mendez*, 166 F.4th 494. The panel held that noncitizens who are present in the United States without having been admitted or paroled, including those apprehended years after entry, are "applicants for admission" under 8 U.S.C. § 1225(a)(1) and are subject to mandatory detention under § 1225(b)(2)(A) pending removal proceedings under § 1229a. The panel further held that such individuals are not eligible for discretionary release on bond under § 1226(a) and that immigration judges lack jurisdiction to conduct bond hearings in their cases. The panel endorsed the Board of Immigration Appeals' precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and reversed two district court orders that had granted habeas relief on statutory grounds.

52. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), similarly held that there is no statutory right to periodic bond hearings under §§ 1225(b), 1226(a), or 1226(c), but it explicitly remanded for the lower courts to consider constitutional arguments in the first instance. *Id.* at 302–03. The Fifth Circuit's statutory holding in *Buenrostro-Mendez* leaves those constitutional questions open, just as *Jennings* did.

53. Habeas jurisdiction remains available to test the legality of detention and the constitutionality of detention procedures; § 1226(e) does not bar review of legal and constitutional claims.

54. Nothing in *Buenrostro-Mendez* strips this Court of jurisdiction under 28 U.S.C. § 2241 to adjudicate constitutional challenges to immigration detention or to review whether the Executive's custody scheme violates governing law. *Jennings* itself distinguishes unreviewable discretionary custody judgments from reviewable questions of law and constitutional claims. Likewise, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*, 538 U.S. 510 (2003), both proceeded through § 2241 habeas and underscore that civil immigration detention must remain tethered to lawful purposes and must satisfy due process.

55. Petitioner does not ask this Court to second-guess a discretionary bond determination. She challenges DHS's asserted authority to hold her in civil detention without any meaningful individualized custody determination by a neutral decisionmaker empowered to order release, and she challenges the lawfulness of the government's detention process as applied to her.

## AS-APPLIED DUE PROCESS VIOLATION FROM PROLONGED OR INDEFINITE DETENTION WITHOUT INDIVIDUALIZED HEARING

56. Even accepting the Fifth Circuit's interpretation that § 1225(b)(2)(A) mandates detention and provides no statutory bond hearing, Petitioner's ongoing and potentially indefinite detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment as applied to her.

57. Civil immigration detention is permissible only to the extent it serves the statutory purposes of ensuring appearance at proceedings and protecting the community from danger. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 527–28 (2003). When detention becomes prolonged or indefinite and is no longer tied to those purposes, it becomes punitive and unconstitutional. *Id.*

58. Petitioner has been detained for more than thirteen months, since May 7, 2025. Her removal proceedings are now in an appellate posture that is inherently prolonged and uncertain: her appeal was fully briefed in June 2026 and awaits adjudication by the BIA, after which remand proceedings may follow. Unlike cases involving imminent removal, her detention is open-ended and not tied to any foreseeable endpoint. While the Fifth Circuit has not adopted a bright-line rule, district courts in this Circuit and others commonly find six months of detention without individualized review presumptively unreasonable absent individualized justification. Petitioner's detention has now lasted more than twice that period without any custody review by any decisionmaker.

59. The constitutional concerns are heightened here because the government's new interpretation, upheld in *Buenrostro-Mendez*, extends mandatory detention without bond or hearing to noncitizens who have lived openly in the United States for significant periods, accrued substantial equities, and were not detained at the time of initial processing. Traditional "arriving alien" detention under § 1225(b) historically applied to those apprehended at or near the border or port of entry, where detention was typically brief pending expedited processing. Extending it to individuals in full § 1229a proceedings with colorable claims for relief raises far graver liberty interests than the brief detention upheld in *Demore* or contemplated for true arriving aliens. Petitioner has

lived in San Antonio for more than twenty-one years and is the mother of four United States citizen children; her liberty interest is at its apex.

60. The constitutional calculus is further altered by the posture of Petitioner's removal proceedings and the manner in which her removal order was entered. Petitioner's only adverse adjudication is a procedural default: her application for relief was deemed abandoned, without any merits hearing, for nonpayment of a fee whose amount was disclosed to her for the first time at the hearing at which she was found in default. DHS itself waived appeal and asserted no bars to relief, and the record confirms her background checks were clear. Petitioner's pending appeal presents substantial grounds for vacatur and remand, after which she would present a colorable claim for cancellation of removal supported by more than two decades of presence and four qualifying citizen children. A detainee with a substantial pathway to remaining lawfully in the United States has every incentive to appear at her proceedings, and the government has never asserted that she is dangerous. Continued detention in these circumstances is not reasonably related to any legitimate governmental purpose. *See Zadvydas*, 533 U.S. at 690; *Aliaga Zamora v. Bondi*, No. SA-26-CA-00447-XR, 2026 WL 693054, at *13 (W.D. Tex. Mar. 10, 2026);* Ribero-Ardila v. Rodriguez*, No. 5:26-CV-0689-JKP, slip op. at 10–11 (W.D. Tex. Apr. 13, 2026).

61. Petitioner's detention is also inflicting serious, documented, and ongoing harm to her health. Detention has already cost Petitioner a seven-month delay between the onset of her reported symptoms and surgery, post-operative care that contravened her physicians' orders, a surgical wound that reopened twice, an untreated infection, biopsy results withheld for more than six months, and the absence of medical attention since February

2026. These documented medical facts are relevant to the weight of Petitioner's private interest and the cost of erroneous deprivation under the *Mathews v. Eldridge* balancing framework. *See Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976); *Zadvydas*, 533 U.S. at 690.

62. Numerous district courts, including within the Fifth Circuit, have held post-*Jennings* that due process requires an individualized bond hearing, with the government bearing the burden of proof by clear and convincing evidence, when mandatory detention under §§ 1225(b) or 1226(c) becomes prolonged. The complete absence of any custody process here, combined with the duration of Petitioner's detention, her equities, and the medical harm she has suffered in custody, renders her continued confinement unconstitutional as applied. *See Longoria Mendoza v. Noem*, No. 5:26-CV-0728-JKP, 2026 WL 809441, at *8–10 (W.D. Tex. Feb. 26, 2026);* Salvador Rodriguez v. Frink*, No. 4:26-CV-00798, ECF No. 13 (S.D. Tex. Mar. 13, 2026) (detention violates due process where it does not bear a reasonable relation to the purpose for which the individual was committed).

## *PRESERVATION OF STATUTORY ARGUMENT FOR* EN BANC *OR SUPREME COURT REVIEW*

63. To preserve the issue for possible *en banc* review or *certiorari*, Petitioner respectfully submits that the panel in *Buenrostro-Mendez* erred in its statutory interpretation for the following reasons, which align with the overwhelming majority of district court decisions nationwide prior to, and after, February 6, 2026:[3]

[3] *See, e.g.*, *Cumbe Lema v. Anda-Yabarra*, No. 3:26-cv-249-KC (W.D. Tex. Feb. 9, 2026); *Hassen v. Noem*, No. 3:26-cv-48-DB (W.D. Tex. Feb. 9, 2026); *Escobar Reyes v. Reynaldo Castro*, No. 5:26-cv-334-XR (W.D. Tex. Feb. 3, 2026); *Samano Aguilar v. Thompson*, No. 5:25-cv-1701-OLG (W.D. Tex. Jan. 7, 2026); *Dominguez-Vega v. Thompson*, No. 25-CA-01439-XR (W.D. Tex. Nov. 19, 2025); *Belsai v. Bondi*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Pizarro Reyes*

a. The phrase "an alien seeking admission" in § 1225(b)(2)(A) is in the present tense and applies only to those actively seeking admission at the time of apprehension (e.g., at a port of entry or in active inspection), not to individuals living quietly in the interior years later;

b. The government's and panel's reading renders § 1226(a)'s bond provisions largely superfluous for the vast majority of noncitizens in removal proceedings who entered without inspection;

c. It contradicts three decades of consistent administrative practice (1997–2025), including EOIR regulations and DHS guidance treating such individuals as detained under § 1226(a);

d. It reverses the congressional intent behind IIRIRA, which sought to eliminate incentives for evading inspection but did not contemplate mandatory indefinite detention for long-present residents.

64. Over 350 district courts nationwide rejected the government's position in 2025 and early 2026 habeas cases, finding the text, structure, and history compel application of § 1226(a).

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*v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025);* Chanaguano Caiza v. Scott, *No. 25-cv-00500, 2025 WL 2806416, at* 3 (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D. Va. Sept. 29, 2025);* Vazquez v. Bostock, *No. 25-cv-05240, 2025 WL 2782499, at* 27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025);* Rivera Zumba v. Bondi, *No. 25-cv-14626, 2025 WL 2753496, at* 7 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025);* Singh v. Lewis, *No. 25-cv-96, 2025 WL 2699219, at* 3 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637, at *7–8 (N.D. Cal. Sept. 16, 2025);* Alvarez-Chavez v. Kaiser, *No. 25-cv-06984-LB, 2025 WL 2909526 (N.D. Cal. Oct. 9, 2025);* Cerritos-Echevarria v. Bondi, *No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz. Oct. 3, 2025);* Padron-Covarrubias v. Vergara, *No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025), rev'd, 166 F.4th 494 (5th Cir. 2026);* Santiago-Santiago v. Bondi, *No. EP-25-CV-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025);* Cardin-Alvarez v. Rivas, *No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389 (D. Ariz. Oct. 7, 2025);* Buenrostro-Mendez v. Bondi, *No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025), rev'd, 166 F.4th 494 (5th Cir. 2026).* But see Chavez v. Noem, *No. 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025);* Vargas-Lopez v. Trump, No. 8:25CV526, 2025 WL 2780351 (D. Neb. Sept. 29, 2025).

65. Since *Buenrostro-Mendez*, the Eighth Circuit has agreed with the Fifth Circuit's reading, see Avila v. Bondi, 170 F.4th 1128 (8th Cir. 2026), while the Second Circuit has reached the opposite conclusion, creating a circuit split on this statutory question that further supports further review by the en banc Fifth Circuit or the Supreme Court.

66. These preserved arguments do not request this Court to disregard binding Fifth Circuit precedent on the statutory issue; they are included solely to preserve further review.

67. These preserved statutory arguments are not a substitute for Petitioner's live claims in this Petition. Regardless of the outcome of any future en banc or certiorari review of the statutory question, Petitioner's as-applied due process claim, set forth in Count II below, does not depend on the correctness of Buenrostro-Mendez and independently warrants habeas relief.

68. For all these reasons, this Court may, and should, grant habeas relief on non-statutory grounds by ordering Petitioner's immediate release.

## THE FIFTH CIRCUIT PANEL'S DECISION IN *BUENROSTRO-MENDEZ v. BONDI* IS INCONSISTENT WITH *LOPER BRIGHT ENTERPRISES v. RAIMONDO*

69. To further preserve the statutory issue for potential *en banc* review by the Fifth Circuit or certiorari to the Supreme Court, Petitioner respectfully submits that the panel's decision in *Buenrostro-Mendez v. Bondi* is inconsistent with the Supreme Court's controlling precedent in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which overruled *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

70. In *Loper Bright*, the Supreme Court held that courts "must exercise their independent judgment in deciding whether an agency has acted within its statutory authority" and may

no longer defer to an agency's interpretation of an ambiguous statute under *Chevron*. *Id.* at 374. While agencies' views may still be entitled to respectful consideration under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), with persuasive force depending on factors such as the thoroughness of the agency's reasoning, the consistency of its position over time, and its expertise, courts must independently determine the best reading of the statute using traditional tools of statutory construction. *Loper Bright*, 603 U.S. at 402.

71. The panel in *Buenrostro-Mendez* did not adhere to this mandate. Although the panel conducted a textual analysis, its reasoning effectively accorded dispositive weight to the Board of Immigration Appeals' recent interpretation in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), a 2025 decision that abruptly reversed nearly three decades of consistent administrative practice (1997–2025) treating unadmitted noncitizens apprehended in the interior as subject to discretionary detention and bond eligibility under § 1226(a). The panel adopted the BIA's new position wholesale, without acknowledging or applying the *Skidmore* factors that, post-*Loper Bright*, should have diminished the persuasive value of an inconsistent, late-breaking agency reversal. The panel appeared to treat the agency's new litigation position as entitled to *Chevron*-style deference. This is particularly striking because the BIA itself invoked *Chevron* in *Yajure Hurtado*, and the panel failed to grapple with *Loper Bright*'s command that courts exercise independent judgment. The panel's statutory holding therefore warrants en banc reconsideration as inconsistent with controlling Supreme Court precedent.

## CAUSES OF ACTION

### COUNT I: UNLAWFUL DETENTION IN VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT ("INA") AND IMPLEMENTING REGULATIONS

72. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

73. The INA authorizes immigration detention only to the extent it serves legitimate, non-punitive statutory purposes, namely, to ensure an individual's appearance at future proceedings or to protect public safety. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Clark v. Martinez*, 543 U.S. 371, 381 (2005). Detention that does not advance those purposes, or that becomes arbitrary and indefinite, exceeds the government's statutory authority.

74. Petitioner has been denied any individualized custody review. Under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and binding EOIR guidance, the Immigration Court categorically lacks authority to conduct any individualized custody assessment in Petitioner's case, and DHS has conducted none of its own, leaving her with no administrative mechanism to challenge her detention.

75. Petitioner acknowledges that, under the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, she does not possess a purely statutory entitlement to a bond hearing before an immigration judge under 8 U.S.C. § 1226(a).

76. However, neither *Buenrostro-Mendez* nor *Matter of Yajure Hurtado* authorizes unlimited, unreviewable civil detention untethered from the INA's non-punitive purposes. The INA does not permit detention to operate as punishment, deterrence, or coercion, nor does it authorize prolonged confinement absent a meaningful mechanism to assess whether

continued detention is necessary to serve its legitimate aims. *Zadvydas*, 533 U.S. at 690–91; *Clark v. Martinez*, 543 U.S. at 380–81. Rather, detention must remain tethered to its statutory purposes.

77. Here, Petitioner's continued detention bears no reasonable relationship to those purposes. She has no criminal convictions, no history of violence, and no individualized finding of dangerousness. She has demonstrated compliance with immigration authorities, has no disciplinary history in custody, and has strong family ties, including four United States citizen children in San Antonio. Her removal is not imminent: her appeal of an order entered on procedural default, without any merits adjudication, is pending before the BIA, was fully briefed only in June 2026, and presents substantial grounds for vacatur and remand. As a result, her detention is not meaningfully connected to effectuating removal within a reasonably foreseeable period. Instead, it persists solely as a result of a categorical legal interpretation that eliminates all meaningful custody review, while her serious medical needs go unmet in custody.

78. Detention under these circumstances exceeds the detention authority Congress conferred in the INA and contravenes the statute's non-punitive design, its implementing regulations, and controlling Supreme Court precedent limiting civil immigration detention to what is reasonably necessary to achieve its lawful purposes.

79. Accordingly, Petitioner's continued detention is unlawful under the INA and its implementing regulations. Petitioner respectfully requests that this Court grant *habeas* relief by ordering her immediate release.

## COUNT II: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

80. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

81. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment because it is prolonged, without any individualized process, not reasonably related to any legitimate governmental purpose, and is inflicting documented harm to her health.

82. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Noncitizens physically present in the United States, including those who entered without inspection, are "persons" within the meaning of the Fifth Amendment and entitled to full procedural due process protections. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982).

83. Immigration detention implicates a fundamental liberty interest and must comport with both procedural and substantive due process. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 527–28 (2003).

84. Procedurally, due process requires a meaningful opportunity to be heard before a neutral decisionmaker. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Substantively, detention must bear a reasonable relation to its non-punitive purposes. *Zadvydas*, 533 U.S. at 690.

85. Here, Petitioner has been categorically denied any custody hearing. Under *Yajure Hurtado* and binding EOIR guidance, the Immigration Court lacks jurisdiction to conduct one, and DHS has provided no alternative mechanism for review. As a result, Petitioner

has had no opportunity to present evidence, challenge her detention, or obtain a determination from a neutral adjudicator at any point in more than thirteen months.

86. Petitioner's detention is likely to continue for an extended and indeterminate period. Her BIA appeal awaits adjudication, and a favorable decision would result in remand proceedings before the Immigration Court. Unlike cases involving imminent removal, her detention is open-ended and not tied to a foreseeable endpoint.

87. Courts within the Western District of Texas have repeatedly held that detention without an opportunity for a meaningful individualized custody determination violates due process. *See Pulido*, slip op. at 3–4; *Marceau*, 2026 WL 368953, at *2.

88. Absent any mechanism for individualized review, Petitioner faces a substantial risk of prolonged or indefinite detention without any finding that her confinement is necessary to serve the government's legitimate interests. Petitioner's constitutional interests are especially substantial given that she has resided in the United States for more than twenty-one years, is the mother of four United States citizen children, has no criminal convictions, and suffers from a serious medical condition that has been neglected in custody, including a surgical wound that reopened twice without adequate care, biopsy results withheld for more than six months, and no medical attention since February 2026. Under the *Mathews v. Eldridge* framework, each factor weighs in her favor: her liberty interest is fundamental, and is heightened by her documented medical condition; the risk of erroneous deprivation is extreme where no hearing exists; and the government's interests can readily be addressed through less restrictive alternatives. *See Ribero-Ardila v. Rodriguez*, No. 5:26-CV-0689-JKP, slip op. at 8–11 (W.D. Tex. Apr. 13, 2026); *Aliaga*

*Zamora v. Bondi*, 2026 WL 693054, at *13 (W.D. Tex. Mar. 10, 2026);* Longoria Mendoza v. Noem, *2026 WL 809441, at* 6–10 (W.D. Tex. Feb. 26, 2026).

89. The constitutional defect in this case is not merely the duration of detention, but the complete absence of any meaningful custody process and the lack of any reasonable relation between detention and its purported purposes. Petitioner is detained under a regime in which:

e. No immigration judge may conduct a bond hearing;

f. DHS is not required to justify continued detention with evidence; and,

g. No neutral decisionmaker is empowered to order release.

90. This structure deprives Petitioner of any meaningful opportunity to be heard and renders her detention arbitrary.

91. The government's detention of Petitioner without any individualized assessment also violates substantive due process because the detention does not bear a reasonable relation to its purpose. In *Salvador Rodriguez v. Frink*, the court held that detention violates due process where it does not "bear a reasonable relation to the purpose for which [the individual] was committed." *Salvador Rodriguez v. Frink*, No. 4:26-CV-00798, ECF No. 13 (S.D. Tex. Mar. 13, 2026) (Ellison, J.). Detaining a mother of four citizen children, with no criminal convictions, no finding of dangerousness, and no flight risk, while denying her adequate medical care for a serious condition that detention itself has aggravated, renders the confinement excessive and punitive in effect. The concern is at its apex here: Petitioner's only adverse adjudication is a procedural default entered without a merits hearing, her appeal of that order is pending and substantial, and each additional

month of confinement compounds documented harm to her health that no custody review has ever weighed.

92. Because no constitutionally adequate process exists, habeas corpus is the only mechanism through which Petitioner can challenge her detention. Accordingly, Petitioner's continued detention without an individualized custody determination violates the Fifth Amendment as applied to her. *Habeas* relief is warranted. Petitioner respectfully requests that this Court order her immediate release from ICE custody.

**PRAYER FOR RELIEF**

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

1. Assume jurisdiction over this *habeas corpus* action pursuant to 28 U.S.C. §§ 2241 and 1331;
2. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days, absent good cause for a short extension not exceeding ten (10) days, and set the matter for a prompt hearing;
3. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of this action, absent further order of the Court;
4. Grant the writ of *habeas corpus* finding that the Petitioner's detention is unlawful and unconstitutional;
5. Order the Petitioner's immediate release from custody, or alternatively, order the Respondents to provide her a bond hearing under 8 U.S.C. § 1226(a) within five days of this Court's order, at which DHS bears the burden to justify detention by demonstrating, by clear and convincing evidence, dangerousness or flight risk;
6. Grant any other further relief this Court deems just and proper.

## PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration. Each day of unlawful detention inflicts irreparable harm on Petitioner. That harm is compounded here by Petitioner's serious medical condition: the results of biopsies taken in connection with her surgery remain unknown to her, her symptoms persist, and she has received minimal medical attention since February 2026. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights, her health, and her well-being.

Respectfully submitted,

/S/ Maria D. Castillo
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*Attorney for Petitioner*

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

I represent Petitioner, Mirta Adilene Espinoza-Guerrero, and submit this verification on her behalf because her current detention makes her unable to submit one on her own 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 2nd day of July, 2026.

/S/ Maria D. Castillo
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TX Bar#24100079
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*Attorney for Petitioner*

**CERTIFICATE OF SERVICE**

I, Maria D. Castillo, hereby certify that on July 2, 2026, I caused a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and all accompanying exhibits to be served via the online CM/ECF system.

Dated this 2nd day of July, 2026.

/S/ Maria D. Castillo
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