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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUANA INESTROZA MADRID,

Petitioner,

v.

CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center; **PATRICK DIVVER**, Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement; **TODD M. LYONS**, Acting Director, U.S. Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, Secretary of U.S. Department of Homeland Security; and **TODD BLANCHE**, Acting Attorney General of the United States,

Respondents.

CIVIL CASE NO.: **'26CV4054 BAS JAC**

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241; ORDER TO SHOW CAUSE WITHIN SEVEN DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner Juana Inestroza Madrid ("Ms. Inestroza Madrid" or "Petitioner"), by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and requests immediate release

from civil immigration detention. In the alternative, she requests a bond hearing before this Court at which the government must prove by clear and convincing evidence that she is a danger to the community or a flight risk.

2. Ms. Inestroza Madrid is a 43-year-old woman from Honduras who has lived in the United States for approximately fourteen years. She has no criminal record and has never failed to appear in any immigration or criminal proceeding. She is the primary financial and emotional support for her two daughters—one of whom is a Lawful Permanent Resident ("LPR") and the other of whom has a pending LPR application.

3. On or about March 23, 2026, Ms. Inestroza Madrid was stopped while driving in South Carolina. She was issued no traffic citation and was given no explanation for the stop. The I-213 provides no specific traffic violation as the basis for the initial stop. She was immediately taken into immigration custody and transported to Stewart Detention Center in Lumpkin, Georgia.

4. Through prior counsel, Ms. Inestroza Madrid filed a Motion for Bond Redetermination on May 22, 2026, and a hearing was scheduled for June 1, 2026. Without prior notice to Ms. Inestroza Madrid or her counsel, she was transferred out of Stewart Detention Center on the very day of her bond hearing. The hearing was not rescheduled. She was transferred to the Otay Mesa Detention Center in San Diego, California, where she remains in civil

custody as of the date of this filing—approximately 113 days after her initial arrest.

5. The government has characterized Ms. Inestroza Madrid as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b). This classification is legally erroneous. Ms. Inestroza Madrid has resided in the United States for fourteen years. She is not currently "seeking admission." Courts across the country—including district courts within this Circuit—have consistently held that noncitizens who have been living in the United States for years are detained under 8 U.S.C. § 1226(a), which requires an individualized bond determination, and are not subject to mandatory detention under § 1225(b). See *Martinez v. Hyde*, 792 F. Supp. 3d 211, 218 (D. Mass. 2025). Most significantly, the Central District of California has vacated the BIA's decision in *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025)—the very authority upon which the government's mandatory detention policy rests—as contrary to law under the Administrative Procedure Act ("APA"). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026).

6. Furthermore, the manner in which Ms. Inestroza Madrid was arrested—stopped while driving, issued no ticket, and given no explanation—raises a serious concern that the arrest was predicated on her ethnicity and national origin, in violation of clearly established constitutional protections against

race-based enforcement. See *Wayte v. United States*, 470 U.S. 598, 608 (1985); *Sanchez v. Sessions*, 904 F.3d 643, 650-52 (9th Cir. 2018).

7. This petition presents four independent grounds for relief.

   a. Count One asserts that Ms. Inestroza Madrid's continued detention without any individualized bond hearing violates the Due Process Clause of the Fifth Amendment.

   b. Count Two asserts that her detention under 8 U.S.C. § 1225(b) is unauthorized by statute, as she is governed by 8 U.S.C. § 1226(a).

   c. Count Three asserts that the Executive Office for Immigration Review ("EOIR"), as currently constituted, is structurally incapable of providing a constitutionally sufficient bond hearing, and that this Court—not the immigration court—is the appropriate forum for any bond determination in this case.

   d. Count Four asserts that the initial traffic stop was motivated by Ms. Inestroza Madrid's perceived race and national origin, rendering her arrest and resulting detention unlawful under the Equal Protection Clause.

8. Ms. Inestroza Madrid respectfully requests: first, that this Court order her immediate release; and in the alternative, that this Court itself conduct a bond hearing at which the government bears the burden by clear and convincing

evidence. She further requests an order prohibiting transfer outside this District and a stay of any removal pending resolution of these proceedings.

II. PARTIES

9. Petitioner JUANA INESTROZA MADRID (A-Number: [redacted]) is a native and citizen of Honduras who has resided in the United States for approximately fourteen years. She is currently detained at the Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, California 92154.

10. Respondent CHRISTOPHER J. LAROSE is the Senior Warden of the Otay Mesa Detention Center, where Ms. Inestroza Madrid is currently held. He is her immediate custodian and is sued in his official capacity.

11. Respondent PATRICK DIVVER is the Field Office Director for the Immigration and Customs Enforcement ("ICE") San Diego Field Office for Enforcement and Removal Operations. His office determines whether Ms. Inestroza Madrid will remain detained or be released, and he has custodial authority over her. He is sued in his official capacity.

12. Respondent TODD M. LYONS is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), the agency within the U.S. Department of Homeland Security ("DHS") responsible for immigration detention and removal. He has custodial authority over Ms. Inestroza Madrid and is sued in his official capacity.

13. Respondent MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland Security ("DHS"), the federal agency responsible for immigration enforcement. He has ultimate custodial authority over Ms. Inestroza Madrid and is sued in his official capacity.

14. Respondent TODD BLANCHE is the Acting Attorney General of the United States and has supervisory authority over the Executive Office for Immigration Review. He is sued in his official capacity.

III. JURISDICTION

15. This Court has jurisdiction over this petition under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. §§ 1361 and 1651 (Mandamus Act and All Writs Act), and 28 U.S.C. § 2201 (Declaratory Judgment Act). Jurisdiction is also supported by the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, and the Fifth and Fourteenth Amendments.

16. Federal district courts retain habeas jurisdiction to review the lawfulness of civil immigration detention. The REAL ID Act did not strip this Court of jurisdiction to review claims challenging the legality of detention as opposed to orders of removal. See *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011); *Hernandez v. Sessions*, 872 F.3d 976, 987 (9th Cir. 2017); *Lopez-Marroquin v. Barr*, 955 F.3d 759 (9th Cir. 2020).

17. Ms. Inestroza Madrid challenges only the lawfulness of her civil immigration detention and the constitutional adequacy of the procedures used to justify that detention, not the merits of removability or any final order of removal. Her claims, therefore, fall outside the channeling provisions of 8 U.S.C. § 1252(b)(9). See *Jennings v. Rodriguez*, 583 U.S. 281, 291–92 (2018) (detention challenges are not "questions of law or fact arising from" removal proceedings and are not channeled through § 1252(b)(9)). Section 1252(g) is likewise inapplicable because Ms. Inestroza Madrid does not challenge any decision "to commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999).

18. Section 1252(f)(1) does not bar the individualized relief sought here. That provision prohibits class-wide injunctions against the operation of the INA's detention provisions but expressly preserves injunctive relief "with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." 8 U.S.C. § 1252(f)(1); see *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–50 (2022). Ms. Inestroza Madrid seeks only as-applied relief tailored to her individual circumstances.

19. To preserve this Court's jurisdiction, Ms. Inestroza Madrid requests that this Court, pursuant to the All Writs Act, 28 U.S.C. § 1651(a), and the authority recognized in *Rumsfeld v. Padilla*, 542 U.S. 426, 441–42 (2004), immediately

prohibit Respondents from transferring her outside this District pending resolution of this petition. The government has already demonstrated its willingness to use transfers tactically: Ms. Inestroza Madrid was transferred on the very day of her bond hearing, without notice to counsel, preventing her from attending her hearing entirely. Given this history, an anti-transfer order is a necessary safeguard to prevent Respondents from again using a transfer to frustrate effective judicial review. See also *Ex parte Endo*, 323 U.S. 283, 307 (1944).

IV. VENUE

20. Venue is proper in the Southern District of California under 28 U.S.C. §§ 1391(b)(2), (e)(1), and 2243 because Ms. Inestroza Madrid is currently detained at the Otay Mesa Detention Center in San Diego, California, within this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451–52 (2004). Ms. Inestroza Madrid is detained in this District, and her immediate custodian and local ICE Field Office Director are located here.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

21. A petitioner seeking habeas relief under 28 U.S.C. § 2241 is not required to exhaust administrative remedies before filing in federal court. See *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) ("[E]xhaustion of

administrative remedies is not required for constitutional claims brought under 28 U.S.C. § 2241."). This Court has jurisdiction to hear Ms. Inestroza Madrid's petition without prior administrative exhaustion.

22. In any event, exhaustion should be excused here for two independent reasons: futility and irreparable injury.

23. Exhaustion is futile. Ms. Inestroza Madrid attempted to obtain a bond hearing before the Immigration Court, only to be transferred—deliberately or at minimum carelessly—on the very day of her scheduled bond hearing, thereby effectively canceling that hearing. As set forth in Count Three, structural impediments to neutral adjudication in EOIR make further administrative proceedings incapable of providing meaningful or adequate relief. The Board of Immigration Appeals ruled against noncitizens in approximately 97% of cases in 2025 and over 90% of cases in 2026. See **Ex. G** (NPR article from March 2026). These rates do not reflect neutral adjudication. Where administrative proceedings cannot provide meaningful review, exhaustion is excused. See *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004).

24. Continued civil detention itself constitutes irreparable injury sufficient to waive any exhaustion requirement. The Ninth Circuit has recognized that the economic burdens imposed on detainees and their families, as well as the collateral harms to children of detainees whose parents are held in civil custody, constitute irreparable harm. *Hernandez v. Sessions*, 872 F.3d 976,

995 (9th Cir. 2017). The Southern District of California waived exhaustion in *Perez Velasquez v. Bondi*, No. 3:26-cv-01759-GPC-DDL (S.D. Cal. Apr. 16, 2026), on the ground of irreparable injury: the petitioner's continued detention and its cascading effects on his family constituted irreparable harm that could not be remedied after the fact by a bond hearing. The same principle applies here. Ms. Inestroza Madrid's two daughters depend on her for financial and emotional support. Every additional day of detention compounds this harm.

VI. FACTUAL BACKGROUND

25. Ms. Inestroza Madrid is a 43-year-old woman, a native and citizen of Honduras. She entered the United States approximately fourteen years ago and has resided continuously in this country since her entry.

26. Prior to her detention, Ms. Inestroza Madrid lived in Charlotte, North Carolina. She has two daughters residing in the United States: one who is a Lawful Permanent Resident and a second who has a pending LPR application. Ms. Inestroza Madrid is the primary financial and emotional support for both daughters.

27. Ms. Inestroza Madrid has no criminal record and has never been convicted of any offense. She has no history of failing to appear in any immigration or court proceeding.

28. Ms. Inestroza Madrid is pursuing relief in the form of asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). Her removal proceedings remain pending.

29. Ms. Inestroza Madrid has secured a sponsor, permanent resident Isaias Jacobo Beltran Sigaran, who has agreed to provide stable housing and financial support in the event of her release. See **Ex. F** (Sponsor Documents). Mr. Beltran Sigaran's support directly addresses any flight risk or danger concerns the government may raise.

30. On or about March 23, 2026, Ms. Inestroza Madrid was stopped by law enforcement while driving in South Carolina for no apparent reason. See **Ex. B** (Form I-213). She was not issued a traffic citation, and there was no traffic violation noted in the I-213. ***Id.*** No explanation was given to her for why she was stopped. She was immediately taken into immigration custody. The absence of any traffic violation or articulable basis for the stop raises serious constitutional concerns detailed in Count Four below.

31. Following her arrest, Ms. Inestroza Madrid was transferred to Stewart Detention Center in Lumpkin, Georgia.

32. Ms. Inestroza Madrid was charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) (present without admission or parole); and 8 U.S.C. § 1182(a)(7)(A)(i)(I) (no valid entry documents). See **Ex. A** (Notice to Appear).

33. Through prior counsel, Ms. Inestroza Madrid filed a Motion for Bond Redetermination on May 22, 2026. A bond hearing was scheduled for June 1, 2026.

34. On June 1, 2026, the same day as her scheduled bond hearing, Ms. Inestroza Madrid was transferred out of Stewart Detention Center without prior notice to her or her counsel. No bond hearing took place. The transfer effectively eliminated any meaningful bond proceeding and deprived her of the individualized custody determination to which she is entitled.

35. Ms. Inestroza Madrid was transferred to the Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, CA 92154, where she remains in civil custody. See **Ex. C** (Printout of Online Detainee Locator). As of the date of this filing, she has been detained for approximately 113 days without any individualized bond determination.

36. In *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the BIA significantly altered the government's decades-long practice of treating noncitizens present in the United States interior as eligible for bond under 8 U.S.C. § 1226(a). ICE thereafter argued that all noncitizens who entered without inspection—regardless of how long they have been in the United States—are "applicants for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2). This interpretation reversed nearly thirty years of consistent agency practice.

37. On February 18, 2026, the United States District Court for the Central District of California vacated *Matter of Yajure Hurtado* as contrary to law under the APA. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, Dkt. No. 116 (C.D. Cal. Feb. 18, 2026).

VII. LEGAL FRAMEWORK

38. Civil immigration detention constitutes a significant deprivation of liberty requiring due process protection. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003).

39. A person may petition for a writ of habeas corpus when she is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). The remedy for unlawful custody is release. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973); *Munaf v. Geren*, 553 U.S. 674, 693 (2008).

40. Section 1226(a) provides the default authority for detention of noncitizens pending removal proceedings. It authorizes only discretionary, individualized detention, and permits release on bond or recognizance. Section 1225(b)(2)

applies to noncitizens "seeking admission" at a port of entry or who were recently apprehended at the border. The plain text of § 1225(b)(2) requires that the individual be: (1) an "applicant for admission"; (2) currently "seeking admission"; and (3) "not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A).

41. Due process requires a meaningful bond hearing at which the government bears the burden of proving, by clear and convincing evidence, that no combination of conditions can reasonably assure appearance at proceedings and community safety. *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

42. As the Southern District of California emphasized in *Gao v. LaRose*, 805 F. Supp. 3d 1106 (S.D. Cal. 2025), "civil immigration detention is permissible only to prevent flight or protect against danger to the community." *Id.* at 1109. The Government therefore "may not detain people without a legitimate reason." *Id.* The Gao court further confirmed that "[e]ssentially all district courts that have considered the issue agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, will—at some point—violate the right to due process." *Id.* at 1110.

VIII. CLAIMS FOR RELIEF

COUNT ONE: Fifth Amendment Due Process, Unlawful Detention and Denial of Meaningful Bond Hearing

43. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

44. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). To determine what process is due, the Court must weigh: (1) the private interest at stake; (2) the risk of erroneous deprivation under existing procedures, and the value of additional safeguards; and (3) the government's interest in maintaining current procedures. *Id.* at 335.

45. The private interest here is Ms. Inestroza Madrid's bodily liberty. She is a 43-year-old woman who has lived in the United States for fourteen years. She is the primary emotional and financial support for her daughters and has no criminal history. The deprivation of her liberty—without any individualized determination of danger or flight risk—is severe.

46. The risk of erroneous deprivation is unacceptably high. Ms. Inestroza Madrid was denied any bond hearing as a direct result of her transfer on June 1, 2026, the very day her bond hearing was scheduled. She had actively sought relief: a Motion for Bond Redetermination had been filed on her behalf and a hearing date had been secured. That hearing was eliminated when, without prior notice to Ms. Inestroza Madrid or her counsel, she was transferred to a different detention facility on the scheduled hearing date. She has since been relocated to this District with no individualized custody determination whatsoever.

A. The Transfer on the Day of the Bond Hearing Was Itself a Due Process Violation.

47. The government's transfer of Ms. Inestroza Madrid on the day of her scheduled bond hearing—without notice to counsel—was not merely an unfortunate logistical event. It was itself a constitutional violation. The Ninth Circuit has recognized that due process encompasses protections against government action that effectively deprives a noncitizen of a full and fair hearing. See *Arizmendi-Medina v. Garland,* 69 F. 4th 1043 (9th Cir. 2023) (holding that government conduct which "deprived [petitioner] of a full and fair opportunity to be heard" violates due process). The government's decision to transfer Ms. Inestroza Madrid on the morning of June 1, 2026, without prior notice to counsel, violated her Fifth Amendment right to due process and was a violation of due process.

B. Prolonged Detention Without Any Individualized Review Is Independently Unconstitutional.

48. Ms. Inestroza Madrid has now been detained for approximately 113 days without an individualized determination of whether she poses a danger or a flight risk. This alone is constitutionally untenable. In *Gao v. LaRose*, 805 F. Supp. 3d 1106 (S.D. Cal. 2025), this Court found a due process violation where a noncitizen was held in prolonged mandatory detention without a bond hearing. In *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1113 (W.D. Wash. 2019), the court similarly found that prolonged detention without an individualized hearing is constitutionally impermissible. Ms. Inestroza Madrid

has been detained for 113 days as a result of a government policy that has now been judicially declared unlawful. That duration—without any meaningful review—independently violates the Due Process Clause.

C. The Totality of Circumstances Warrants Immediate Release.

49. The government's mandatory detention policy, applied categorically to everyone who entered without inspection regardless of time in the country, creates an unacceptable risk of erroneously detaining individuals who pose no danger and no flight risk. The government's interest cannot justify categorical detention without individualized review. The Supreme Court has recognized that the only valid governmental interests in civil immigration detention are ensuring appearance at proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. at 528. Neither interest requires categorical denial of any bond hearing for a 14-year resident with strong family ties, a committed sponsor, and no criminal record.

50. Ms. Inestroza Madrid has no criminal history and is therefore not a danger to the community. She has secured a permanent resident sponsor, Isaias Jacobo Beltran Sigaran, who will provide stable housing and financial support. **Ex. F.** She is more than capable of demonstrating at a bond hearing that she is neither a danger nor a flight risk.

51. Due process requires more than a hearing in name; it requires a constitutionally adequate hearing at which probative evidence is considered

and the correct legal standard is applied. *Vilchez v. Holder,* 682 F.3d 1195, 1198 (9th Cir. 2012); see also *Perez Velasquez v. Bondi,* No. 3:26-cv-01759-GPC-DDL (S.D. Cal. Apr. 16, 2026) (applying this standard to find bond hearing constitutionally deficient). Ms. Inestroza Madrid has never received such a hearing.

52. This Court has broad equitable authority to remedy a due process violation. This Court has already granted habeas relief on closely analogous facts. In *Rodas-Dieguez v. Noem*, No. 3:26-cv-00976-RBM-MMP (S.D. Cal. Feb. 27, 2026), the Court ordered relief where a petitioner was detained after entering without inspection and was denied a bond hearing by immigration courts invoking *Yajure Hurtado*. This Court and other district courts have consistently reached the same conclusion. See, e.g., *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020) (ordering bond hearing for noncitizen detained under § 1225(b)(1) for 20 months); *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1113 (W.D. Wash. 2019); *A.E. v. Andrews*, 2025 WL 1424382, at *4 (E.D. Cal. May 16, 2025); *Soriano v. Hernandez*, No. 2:26-cv-00900-DGE (W.D. Wash. Apr. 10, 2026) (ordering immediate release).

53. A post-deprivation bond hearing cannot cure the deprivation already suffered. See *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021). Where the process that led to detention was constitutionally deficient from the outset—as it was here—this Court should order immediate release rather than

requiring Ms. Inestroza Madrid to navigate an administrative process that has already proven incapable of providing meaningful review.

COUNT TWO: Detention Not Authorized by Statute, 8 U.S.C. § 1225(b) Does Not Apply

54. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

55. The government's classification of Ms. Inestroza Madrid as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2) is contrary to the plain text of the statute, decades of agency practice, and the overwhelming weight of judicial authority.

56. Section 1225(b)(2)(A) applies only when an individual is actively "seeking admission" to the United States. Courts have consistently interpreted this language to reach only noncitizens currently presenting themselves at the border or recently apprehended at a port of entry—not individuals who have been residing in the interior of the United States for years. As the District of Massachusetts held in *Martinez v. Hyde*, 792 F. Supp. 3d 211, 217-218 (D. Mass. 2025), the phrase "seeking admission" is undefined in the statute but "necessarily implies some sort of present-tense action." See also *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850, at *12 (W.D. Wash. Apr. 24, 2025).

57. Section 1226(a) applies by default to all noncitizens in removal proceedings who are not subject to mandatory detention under § 1226(c) (certain criminal

aliens) or § 1225(b)(1) (expedited removal). Ms. Inestroza Madrid has been in the United States for fourteen years. She is not seeking admission; she is in removal proceedings. Her detention is governed by § 1226(a), which requires individualized bond consideration.

58. The Ninth Circuit has consistently held that aliens physically present in the United States, regardless of how they entered, retain Fifth Amendment due process rights in removal proceedings. *Landon v. Plasencia*, 459 U.S. 21 (1982); *Dent v. Holder*, 627 F.3d 365 (9th Cir. 2010). The government's effort to classify Ms. Inestroza Madrid as an arriving alien—and thereby strip her of due process protections—runs contrary to this settled legal principle.

59. The government's interpretation also renders the Laken Riley Act's recent amendment to § 1226(c) superfluous. Congress added a new category to mandatory detention under § 1226(c) in January 2025 that includes noncitizens who entered without inspection ("EWI") and who have been arrested, charged with, or convicted of certain crimes. Pub. L. No. 119-1, 139 Stat. 3 (2025). If all EWI noncitizens were already subject to mandatory detention under § 1225(b), this amendment would be entirely redundant. Courts presume that Congress does not enact surplusage. See *United States ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023).

60. Most significantly, the BIA's decision in *Matter of Yajure Hurtado*—the linchpin of the government's mandatory detention theory—has been vacated

as contrary to law under the APA by the United States District Court for the Central District of California. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, Dkt. No. 116 (C.D. Cal. Feb. 18, 2026). In that decision, the court found that *Yajure Hurtado* contained "an identical, incorrect interpretation of law" to the DHS's interim policy that was previously declared unlawful, and that it is "emphatically the province and duty of the judicial department to say what the law is." *Id.* (quoting *Marbury v. Madison*, 5 U.S. 137, 177 (1803)). With *Yajure Hurtado* vacated, the government has no valid legal authority for treating Ms. Inestroza Madrid—a 14-year resident—as subject to mandatory detention under § 1225(b).

61. As a result of this unlawful classification, Ms. Inestroza Madrid has been denied any individualized custody determination. The Court should declare that her detention is governed by 8 U.S.C. § 1226(a) and order her immediate release, or in the alternative, conduct a bond hearing before this Court at which the government bears the burden of proof by clear and convincing evidence. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Sadeqi v. LaRose*, 809 F. Supp. 3d 1090 (S.D. Cal. 2025).

COUNT THREE: EOIR Cannot Provide an Impartial, Constitutionally Sufficient Bond Hearing; This Court Is the Appropriate Forum

62. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

63. Due process guarantees more than a bond hearing in name; it requires a hearing before an impartial adjudicator who applies the correct legal standard. *Mathews v. Eldridge*, 424 U.S. 319 (1976). Where the adjudicatory body is structurally incapable of providing impartial review, remanding a petitioner to that body cannot satisfy due process. The immigration court system as currently constituted cannot provide the constitutionally sufficient bond hearing to which Ms. Inestroza Madrid is entitled. Multiple converging factors establish this structural incapacity.

64. First, the Chief Immigration Judge issued nationwide guidance instructing immigration judges that they are not bound by federal district court orders requiring bond hearings, including orders issued by courts in this District. See **Ex. D** (Reuters article from January 2026); **Ex. E** (Bloomberg article from February 2026). The *Maldonado Bautista* court expressly addressed this guidance, finding that Chief Immigration Judge Teresa L. Riley's directive effectively "encourage[d] IJs across the country to stay the course of violating the rights of Bond Eligible Class Members." *Maldonado Bautista*, Dkt. No. 116, at 13. An administrative tribunal that refuses to comply with federal court orders cannot serve as the forum for constitutional rights adjudication. As the *Maldonado Bautista* court stated: "It is 'emphatically the province and duty of the judicial department to say what the law is.' It is not the executive

department's province and duty to say what the law is." *Id.* at 15 (quoting *Marbury v. Madison*, 5 U.S. at 177).

65. Second, even after the C.D. Cal. issued its final judgment in *Maldonado Bautista*, immigration judges continued to follow *Matter of Yajure Hurtado* and deny bond hearings to class members who were legally entitled to them. The court documented over 400 cases nationwide in which district courts granted habeas petitions filed by Bond Eligible Class members following its December 18, 2025 final judgment, as evidence of Respondents' systematic noncompliance. *Maldonado Bautista*, Dkt. No. 116, at 6. The *Maldonado Bautista* court ultimately granted a motion to enforce its judgment on February 18, 2026, expressly vacating *Yajure Hurtado* under the APA and ordering classwide notice. *Id.* at 19. The pattern of defiance documented in *Maldonado Bautista* demonstrates that the immigration court system, as currently constituted, will not reliably follow the law—even when ordered by a federal district court to do so.

66. Third, EOIR leadership and immigration judges have been broadly instructed to deny relief to detained noncitizens, resulting in a 97% rule-against rate for noncitizens before the BIA in 2025 and at least 90% in 2026. See **Ex. G** (NPR article from March 2026). These rates do not reflect neutral adjudication—they reflect an institutional push to deny relief. A bond hearing before an

immigration judge who operates under such directives cannot provide the impartial review that due process demands.

67. Fourth, even where immigration judges conduct bond hearings, those hearings have been found constitutionally deficient on a widespread basis. In *Perez Velasquez v. Bondi*, No. 3:26-cv-01759-GPC-DDL (S.D. Cal. Apr. 16, 2026), this Court found that an IJ's bond denial was constitutionally insufficient where the IJ failed to apply the *Matter of Guerra,* 24 I. & N. Dec. 37 (BIA 2006) factors, relied on legally irrelevant evidence, and ignored probative evidence in the petitioner's favor. The Court ordered immediate release rather than remand.

68. Immediate release, not a remand to immigration court, is the appropriate remedy where the underlying detention is unlawful and the structural defects in EOIR make any remand incapable of providing a constitutional remedy. *Perez Velasquez v. Bondi*. Where the government has established a pattern of using administrative procedures to perpetuate unlawful detention, the habeas court may and should exercise its authority to grant direct relief rather than perpetuate the cycle. See also *Soriano v. Hernandez*, No. 2:26-cv-00900-DGE (W.D. Wash. Apr. 10, 2026).

69. If the Court does not order immediate release, it should conduct a bond hearing before itself at which the government bears the burden to prove by clear and convincing evidence that Ms. Inestroza Madrid poses a danger or

flight risk that no conditions of release can mitigate. *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011). For all the reasons set forth above, this Court—not EOIR—is the appropriate forum for that determination.

COUNT FOUR: Unlawful Arrest—Racial Profiling and Violation of Equal Protection
(Discovery Claim—Preserved for Factual Development)

70. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

71. The Equal Protection component of the Fifth Amendment's Due Process Clause prohibits the federal government from making decisions based on race or national origin. It applies with full force to immigration enforcement. Under long-established doctrine, "the decision to prosecute may not be deliberately based upon an unjustifiable standard such as race, religion, or other arbitrary classification." *Wayte v. United States*, 470 U.S. 598, 608 (1985); see also *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 491–92 (1999). Where immigration enforcement decisions are motivated by an individual's perceived race or national origin, rather than any race-neutral justification, they violate the Fifth Amendment's equal protection guarantee.

72. Ms. Inestroza Madrid was stopped while driving in South Carolina. The ICE encounter form I-213 does not identify any traffic infraction or articulable basis for the stop. **Ex. B.** She was issued no traffic citation. She received no explanation for why she was stopped. She is a Latina woman from Honduras. Upon being stopped, she was immediately taken into ICE custody.

73. These facts give rise to a serious concern that the stop was predicated on her perceived ethnicity or national origin. The Ninth Circuit has held that a noncitizen detained "solely on the basis of his Latino appearance" suffers a "particularly egregious regulatory violation" under 8 C.F.R. § 287.8(b)(2), which requires reasonable suspicion before any immigration stop. *Sanchez v. Sessions*, 904 F.3d 643, 645 (9th Cir. 2018). The complete absence of a traffic citation, any stated basis for the stop, or any articulable suspicion, combined with the immediate ICE involvement, is consistent with racial targeting rather than legitimate law enforcement activity. The Ninth Circuit has repeatedly held that Hispanic appearance alone cannot justify a traffic stop or immigration enforcement stop. *United States v. Montero-Camargo*, 208 F.3d 1122, 1135 (9th Cir. 2000) (en banc).

74. A traffic stop not supported by reasonable suspicion also violates the Fourth Amendment. *Rodriguez v. United States*, 575 U.S. 348, 354 (2015). Ms. Inestroza Madrid's civil detention flows directly from this initial stop. Where the foundational arrest was constitutionally infirm, the resulting detention is likewise unlawful.

75. Ms. Inestroza Madrid acknowledges that factual development is needed to fully establish this claim. She preserves this claim pending factual development through discovery. The primary remedy she seeks under this Count is not immediate release, but rather discovery or an evidentiary hearing

into the circumstances of the March 23, 2026 stop—including the identities and instructions given to the officers involved, any communications between law enforcement and ICE prior to the stop, and any documentation of the basis for the encounter. This Court's habeas jurisdiction supports such inquiry. See *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008) (habeas court must have ability to conduct meaningful factual inquiry). To the extent discovery reveals evidence of racial motivation, Ms. Inestroza Madrid will seek appropriate relief up to and including suppression of the stop and immediate release as a consequence of the unlawful arrest.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner Juana Inestroza Madrid respectfully requests that this Court:

1. Assume jurisdiction over this Petition;
2. Issue an immediate Order prohibiting Respondents from transferring Ms. Inestroza Madrid outside the Southern District of California pending resolution of this Petition;
3. Grant the writ of habeas corpus and order Petitioner's immediate release from civil immigration custody, without bond, electronic monitoring, or other conditions imposed solely on account of the unlawful detention –

or, at minimum, under the least restrictive conditions necessary to reasonably ensure appearance and community safety;

4. In the alternative, conduct a bond hearing before this Court within seven (7) days, at which the government must bear the burden of proving by clear and convincing evidence that no combination of conditions can reasonably ensure Petitioner's appearance at proceedings and community safety;
5. If the Court orders Petitioner released, enjoin Respondents from re-detaining Petitioner absent a lawful individualized custody determination before a neutral adjudicator, at which the government bears the burden of proof by clear and convincing evidence;
6. Issue an Order to Show Cause requiring Respondents to respond within seven (7) days as to why the writ should not be granted;
7. Declare that Petitioner's detention under 8 U.S.C. § 1225(b) is unlawful and that her detention, if any, is governed by 8 U.S.C. § 1226(a);
8. Declare that the government's reliance on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), as authority for detaining Petitioner is invalid, as that decision has been vacated by a federal district court as contrary to law;
9. Order discovery or an evidentiary hearing on the circumstances of the March 23, 2026 traffic stop, including the identities and instructions of

the officers involved and any communications between law enforcement and ICE prior to the stop;

10. Declare that Respondents' actions to detain Petitioner violate the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act;

11. Award reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and any other applicable authority; and

12. Grant such other and further relief as the Court deems just and proper.

Dated: July 14, 2026

Respectfully submitted,

/s/ Christina Liao Tong
Christina Liao Tong (CA Bar No. 337433)
Law Offices Of Jane Oak & Associates, P.C.

Attorney for Petitioner

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I, Christina Tong, do depose and state:

I represent Petitioner Juana Inestroza Madrid in these habeas corpus proceedings. Ms. Inestroza Madrid is currently being held in detention at the Otay Mesa Detention Center and is not able to appear in my office to sign this Verification. I have reviewed the record of her detention and discussed this matter with Ms. Inestroza Madrid. I verify that the information contained in the foregoing petition is true and correct to the best of my knowledge and belief.

Dated: July 14, 2026

/s/ Christina Liao Tong
Christina Liao Tong, Esq.
Attorney for Petitioner