IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

1. LAURIE GERMAIN,

Petitioner,

v.

1. WARDEN, EL PASO PROCESSING CENTER, in his or her official capacity;
2. MARY DE ANDA-YBARRA, Field Office Director, U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, El Paso Field Office, in her official capacity;
3. DAVID J. VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement, in his official capacity;
4. MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, in his official capacity;
5. U.S. DEPARTMENT OF HOMELAND SECURITY;
6. TODD BLANCHE, Attorney General of the United States, in his official capacity;
7. DAREN MARGOLIN, Director, Executive Office for Immigration Review, in his official capacity;

Respondents.

Case No. 3:26-cv-2151

Agency File No. [redacted]

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Laurie Germain is a twenty-five-year-old citizen of Haiti. In September 2023 she boarded a commercial flight to the United States holding a travel authorization issued to her by the Department of Homeland Security under the Haitian parole process. She presented herself for inspection at a port of entry, a Customs and Border Protection officer inspected her, and the United States government paroled her into the country. She then did exactly what the government asked of her. She settled at one address in Rochester, New York. She applied for asylum, paid the filing fee, and kept her address current. She appeared for her biometrics appointment two days early. She has no criminal history: in her sworn asylum application she disclosed no arrest, charge, or conviction in the United States or any other country, and Respondents have alleged none.

2. This is not a case about which detention statute applies. It is a case about whether the government may strip a person of liberty it previously granted, after more than two years of open and compliant residence in the community, without notice, without a hearing, without any finding of changed circumstances, and without any individualized determination that detention is necessary. Under the Fifth Amendment, the answer is no.

3. Recently, on a date recorded in Respondents' files, officers of Immigration and Customs Enforcement stopped a vehicle in which Petitioner was riding as a passenger and arrested her. She was not driving; the vehicle was not hers; and no

warrant for her arrest, no written notice of the reasons for her re-detention, and no review of the custody decision by any neutral decisionmaker has been disclosed to Petitioner or her counsel, and Respondents have identified or produced none. Respondents then transported her to a tent facility on a military installation outside El Paso, Texas, approximately 1,800 miles from her Rochester home, where she remains today. To this day, Respondents have not served her with a Notice to Appear or commenced any removal proceeding against her.

4. Petitioner has no practical avenue by which to seek her release. No custody classification has been disclosed to Petitioner or her counsel; on information and belief, Respondents are treating her as an applicant for admission detained under 8 U.S.C. section 1225(b)(2)(A). On that treatment, the immigration court's custody-review mechanism, which operates on determinations made under 8 C.F.R. part 1236, does not furnish her a bond hearing, see 8 C.F.R. section 1003.19(a), and section 1003.19(h)(2)(i)(B) confirms that, once removal proceedings are commenced, arriving aliens remain excluded from immigration judge custody redetermination. The only discretionary alternative, a request for parole to the very agency detaining her, does not furnish a neutral custody adjudication equivalent to a bond hearing. The result is detention of indefinite duration with no neutral review of any kind. That is the constitutional defect at the center of this Petition.

5. Petitioner seeks a writ of habeas corpus ordering her immediate release. In the alternative, she asks the Court to order a bond hearing within seven days before a

neutral decisionmaker at which the government bears the burden of justifying her continued detention by clear and convincing evidence.

JURISDICTION

6. This Court has subject matter jurisdiction under 28 U.S.C. section 2241, which authorizes a district court to grant a writ of habeas corpus to a person held in custody in violation of the Constitution or laws of the United States, and under 28 U.S.C. section 1331, because this action arises under the Constitution and laws of the United States.

7. Jurisdiction is also conferred by Article I, section 9, clause 2 of the United States Constitution, the Suspension Clause. *See Boumediene v. Bush*, 553 U.S. 723, 739 (2008).

8. The Supreme Court has repeatedly confirmed that federal courts have habeas jurisdiction to review the lawfulness of immigration detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018).

9. No statute strips this Court of jurisdiction. Petitioner does not challenge a removal order, the discretionary judgment whether to grant relief from removal, or the commencement of proceedings. She challenges the lawfulness of her physical custody. *See* 8 U.S.C. section 1226(e); *Demore*, 538 U.S. at 516-17.

10. This Court may grant declaratory relief under 28 U.S.C. sections 2201 and 2202 and may issue all writs necessary or appropriate in aid of its jurisdiction under 28 U.S.C. section 1651.

VENUE

11. Venue is proper in this District because Petitioner is detained at the El Paso Processing Center at 8915 Montana Ave, El Paso, TX 79925, which lies in El Paso County within the El Paso Division of this District, and because her immediate custodian is located here. *See Rumsfeld v. Padilla*, 542 U.S. 426, 442-43 (2004); *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).

12. Venue is also proper under 28 U.S.C. section 1391(e) because Respondents are officers and employees of the United States acting in their official capacities, and a substantial part of the events giving rise to this action, namely Petitioner's continued detention, occurs in this District.

13. Jurisdiction and venue, once properly established by the filing of this Petition, are not defeated by any subsequent transfer of Petitioner out of this District. *See Ex parte Endo*, 323 U.S. 283, 305-07 (1944); *Padilla*, 542 U.S. at 441. A transfer would nonetheless impair this Court's ability to provide prompt and effective relief and would complicate the immediate custodian posture, which is why Petitioner requests the anti-transfer relief set out in the Prayer.

REQUIREMENTS OF 28 U.S.C. SECTION 2243

14. Section 2243 requires that a court entertaining a habeas application "forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. Section 2243.

15. The statute further requires that the return be made "within three days unless for good cause additional time, not exceeding twenty days, is allowed," and directs the court to "summarily hear and determine the facts, and dispose of the matter as law and justice require." *Id.*

16. The writ of habeas corpus is "the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." *Fay v. Noia*, 372 U.S. 391, 401-02 (1963). Its essence "is that it is a swift and imperative remedy in all cases of illegal restraint or confinement." *Id.* at 400. Every day of unlawful detention is an irreparable injury that no later order can undo.

PARTIES

17. Petitioner Laurie Germain is a native and citizen of Haiti, born in Port-au-Prince in 2001. Her alien registration number is [redacted] She is presently detained by Respondents at the El Paso Processing Center in El Paso, Texas.

18. Respondent Warden of the El Paso Processing Center is sued in his or her official capacity. The Warden is the person with day-to-day physical control over Petitioner

and is her immediate custodian for purposes of 28 U.S.C. section 2241. *See Padilla*, 542 U.S. at 434-35. The facility is operated under contract with U.S. Immigration and Customs Enforcement.

19. Respondent Mary De Anda-Ybarra is the Field Office Director for Enforcement and Removal Operations, El Paso Field Office, U.S. Immigration and Customs Enforcement, and is sued in her official capacity. She has legal authority over Petitioner's custody, including the authority to release her.

20. Respondent David J. Venturella is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. ICE is the agency responsible for Petitioner's arrest, detention, and custody classification.

21. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security and is sued in his official capacity. He is charged with administering the immigration laws and has ultimate custodial authority over Petitioner.

22. Respondent U.S. Department of Homeland Security is the federal agency responsible for the enforcement of the immigration laws and for the detention of noncitizens.

23. Respondent Todd Blanche is the Attorney General of the United States and is sued in his official capacity. He supervises the Executive Office for Immigration Review.

24. Respondent Daren Margolin is the Director of the Executive Office for Immigration Review and is sued in his official capacity. Respondent Executive Office for

Immigration Review is the component of the Department of Justice that administers the immigration courts, whose regulations and adjudicative practice deny Petitioner access to a custody hearing.

LEGAL FRAMEWORK

A. The three detention regimes.

25. The immigration laws contain three principal civil detention regimes. Section 1226(a) of Title 8 is the default provision governing detention pending a decision on whether a noncitizen is to be removed. It is discretionary: the Attorney General "may continue to detain the arrested alien" or "may release the alien" on bond or conditional parole. 8 U.S.C. section 1226(a)(1)-(2). Section 1226(c) requires detention of a defined set of noncitizens with specified criminal histories. Section 1231 governs detention after a removal order becomes administratively final.

26. Section 1225(b) is different in kind. It is an inspection statute. It governs the examination of persons "arriving in the United States" and those "seeking admission" at the moment of inspection, and it directs detention of an applicant for admission whom "the examining immigration officer determines" is "not clearly and beyond a doubt entitled to be admitted," pending a section 1229a proceeding. 8 U.S.C. section 1225(b)(2)(A). The Supreme Court has described this scheme as operating "at the Nation's borders and ports of entry, where the Government must

determine whether an alien seeking entry into the country is admissible." *Jennings*, 583 U.S. at 287.

27. Section 1226(a) applies by default. That the default is broad is confirmed by the exceptions Congress wrote into section 1226(c), including the provision addressed to persons who are inadmissible for having entered without inspection. 8 U.S.C. section 1226(c)(1)(E). When Congress creates specific exceptions to a statute's applicability, it confirms that absent those exceptions the statute generally applies.

B. The agencies' own longstanding construction.

28. In 1997, implementing the Illegal Immigration Reform and Immigrant Responsibility Act, the Immigration and Naturalization Service and the Executive Office for Immigration Review explained, under the heading "Apprehension, Custody, and Detention of Aliens," that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). For nearly three decades that was the agencies' settled practice.

29. The bond regulations reflect the same understanding. See 8 C.F.R. sections 236.1, 1236.1, and 1003.19. Only recently have the agencies taken the position that section 1225(b)(2) sweeps in persons long resident in the interior, a position that has divided the courts of appeals.

C. The constitutional floor.

30. The Fifth Amendment provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. That protection extends to all persons within the United States, whatever their immigration status. *Zadvydas*, 533 U.S. at 693.

31. Freedom from imprisonment, "from government custody, detention, or other forms of physical restraint," lies "at the heart of the liberty" the Due Process Clause protects. *Id.* at 690. It is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Freedom from bodily restraint "has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

32. These due process protections apply regardless of which immigration detention statute governs Petitioner's custody. The Constitution provides a floor below which no statutory framework may fall. *See Zadvydas*, 533 U.S. at 695; *Clark v. Martinez*, 543 U.S. 371, 380 (2005) (extending *Zadvydas* to inadmissible aliens).

STATEMENT OF FACTS

A. Petitioner was inspected at a port of entry and paroled into the United States.

33. Petitioner was born in Port-au-Prince, Haiti in 2001. She was a nursing student in Haiti. Her father is deceased. Her mother and two younger sisters remain in Haiti.

34. In 2023 the Department of Homeland Security approved Petitioner's travel authorization under the Haitian parole process. The authorization states that she was "authorized to travel to the United States under the Haitian parole process to seek parole," that the document itself did not grant parole, and that "a U.S. Customs and Border Protection (CBP) officer will make the determination on parole once you arrive at a port of entry." The authorization required her to travel by commercial air. It was valid through November 13, 2023. A true and correct copy is attached as Exhibit A.

35. On September 17, 2023, Petitioner travelled by commercial air and presented herself for inspection at the port of entry at Fort Lauderdale, Florida. A CBP officer inspected her and paroled her into the United States under 8 U.S.C. section 1182(d)(5)(A). She was issued Form I-94 arrival record number [redacted] reflecting a class of admission of HHP. The official arrival record maintained by U.S. Customs and Border Protection reflects an arrival date of September 17, 2023 and an admit-until date of June 12, 2025. *See* Exhibit B. Petitioner's asylum application identifies the place of entry as Fort Lauderdale. *See* Exhibit C.

36. Petitioner's asylum application, which she prepared without the assistance of counsel, records the expiration of her status as September 15, 2025. The current official CBP I-94 record reflects June 12, 2025. Petitioner pleads the date reflected in Respondents' own current record, and requests production of the historical parole records that would establish the period originally granted.

37. Petitioner did not enter the United States without inspection. She was not apprehended at or near the border. She did not evade inspection. She came to a port of entry with a document the United States government had issued to her, and the United States government examined her and let her in.

B. Petitioner's parole ended in June 2025, and Respondents left her at liberty for months afterward.

38. The arrival record CBP maintains today reflects an admit-until date of June 12, 2025. *See* Exhibit B. June 12, 2025 is the date on which the Department of Homeland Security announced that it had begun issuing notices of termination, by electronic mail, to persons paroled under the parole processes for Cubans, Haitians, Nicaraguans, and Venezuelans, advising them that their parole and any parole-based employment authorization were revoked effective immediately.

39. On information and belief, the June 12, 2025 date now reflected in Petitioner's arrival record is the product of that categorical action rather than the expiration of the parole period fixed at her inspection. No individualized Notice of Termination of Parole is in the possession of Petitioner's counsel, and none has been disclosed or produced by Respondents. Respondents possess the records that would resolve the question, and Petitioner requests their production.

40. Petitioner does not need to resolve that question to prevail. Whether her parole expired by its own terms or was terminated as part of the categorical action, the constitutional analysis is the same. *See Marceau v. Noem*, No. EP-26-CV-237-KC,

2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026) ("Regardless of whether [Petitioner's] parole has expired or been terminated, Respondents may not revoke that liberty without an individualized determination of the need to do so.").

41. No individualized determination that Petitioner had violated any condition of her parole, that she posed a danger to any person, or that she posed a risk of flight has been disclosed to Petitioner, and Respondents have identified or produced none.

42. Respondents did not detain Petitioner when her parole ended. She was still at liberty on March 11, 2026, nearly nine months after June 12, 2025, and on information and belief for a considerable period beyond that. During that period the Department of Homeland Security accepted her application for asylum and her filing fee, issued her a receipt notice, scheduled her for biometrics collection, and collected her biometrics.

43. At no time during those months did any officer of the United States direct Petitioner to report for detention, and at no time before her arrest was she detained.

44. Respondents have identified or disclosed no materially changed circumstance between Petitioner's parole and her arrest. She has not been alleged to have violated any condition of her release, and no new derogatory information about her has been identified or disclosed.

C. Petitioner lived openly in the community and complied with every requirement.

45. Petitioner reports, and counsel's intake record reflects, that after her parole she settled in Rochester, New York and resided continuously at a single address there

until her arrest. That address is her address of record with United States Citizenship and Immigration Services and appears on the agency correspondence attached as Exhibits C, D, and E.

46. On February 1, 2026, Petitioner filed Form I-589, Application for Asylum and for Withholding of Removal, with USCIS. She paid the filing fee in full. USCIS receipted the application under number [redacted] and confirmed in writing that her "complete Form I-589 . . . was received and is pending as of 02/01/2026." The application was assigned to the USCIS Newark Asylum Office. A true and correct copy of the receipt notice is attached as Exhibit D.

47. On February 20, 2026, USCIS issued a notice directing Petitioner to appear at the Buffalo Application Support Center on March 13, 2026 for biometrics collection. Petitioner appeared on March 11, 2026, two days ahead of her scheduled appointment. The Application Support Center applied its biometrics processing stamp to her notice, bearing site code XBH and the date March 11, 2026. A true and correct copy is attached as Exhibit E.

48. Petitioner has no criminal history of record. She swore under penalty of perjury in her asylum application, filed months before her arrest and at a time when she had no reason to anticipate this proceeding, that she has never committed any crime and has never been arrested, charged, convicted, or sentenced for any crime in the United States. *See* Exhibit C. In Part B.2 of the same sworn application, which is in Respondents' records and available on request, she disclosed no arrest, detention, or charge in any other country. Respondents have not alleged otherwise.

49. In short, for more than twenty-nine months Petitioner lived at an address known to the government, pursued a lawful application for protection through the government's own process, and appeared early when the government summoned her.

D. Respondents re-detained Petitioner without any individualized custody process disclosed to her.

50. The precise date and place of Petitioner's arrest are not presently known to counsel. Petitioner is detained far from counsel, and the exact date, time, and location of her arrest are recorded in Respondents' own arrest records, which Petitioner requests. On information and belief, the arrest occurred recently, and it occurred in the State of Ohio.

51. The documentary record fixes a bound. Petitioner was at liberty in western New York on March 11, 2026, when the Buffalo Application Support Center stamped her biometrics notice. *See* Exhibit E. Her arrest occurred after her March 11, 2026 biometrics appearance, and her detention has lasted no longer than the period since that date, a period whose precise length Respondents can state to the day and Petitioner presently cannot.

52. What is known about the arrest is this. Officers of Immigration and Customs Enforcement stopped a moving vehicle in which Petitioner was riding as a passenger. The vehicle was driven by, and registered to, her boyfriend, who was in the course of making commercial package deliveries. Petitioner reports, and

counsel's intake record reflects, these circumstances; the government's own record of the stop and arrest is in Respondents' possession.

53. The stop was not directed at Petitioner. She was a passenger. No conduct of hers prompted the stop, and Respondents have identified or disclosed no individualized basis particular to Petitioner for the stop or for her arrest.

54. No warrant for Petitioner's arrest has been disclosed to her or her counsel, and Respondents have identified or produced none. A warrantless immigration arrest requires reason to believe both that the person is in violation of the immigration laws and that she "is likely to escape before a warrant can be obtained for h[er] arrest." 8 U.S.C. section 1357(a)(2). Nothing presently disclosed identifies any basis to believe that Petitioner, a passenger in a vehicle stop with a fixed address, a pending asylum application, and a documented history of appearing when summoned, was likely to escape before a warrant could be obtained, and no such determination has been disclosed or produced.

55. For a person arrested without a warrant, Respondents' own regulation requires a determination "within 48 hours of the arrest," absent emergency or other extraordinary circumstance, "whether the alien will be continued in custody or released on bond or recognizance and whether a notice to appear and warrant of arrest . . . will be issued." 8 C.F.R. section 287.3(d). No such determination, and no record of one, has been disclosed to Petitioner or her counsel.

56. As of the filing of this Petition, no Notice to Appear or other charging document has been served on Petitioner or provided to her counsel, and no removal proceeding is pending against her.

57. Because no charging document has been filed, Petitioner's asylum application remains pending before USCIS as an affirmative application, assigned to an asylum office roughly two thousand miles from her current place of detention.

58. Respondents thereafter transported Petitioner to El Paso, approximately 1,800 miles from her Rochester home. She remains in Respondents' custody as of the filing of this Petition. A true and correct copy of the ICE Online Detainee Locator System record reflecting her custody at that facility is attached as Exhibit F.

59. The transfer removed Petitioner from the district where she lived, from the asylum office with jurisdiction over her pending application, and from any community support available to her.

60. In re-detaining Petitioner, Respondents provided none of the process the Due Process Clause requires:

a. No written notice of the reasons for her re-detention was provided to her;

b. No hearing before a neutral decisionmaker was conducted, before or after her arrest;

c. No individualized assessment of flight risk or danger to the community was disclosed to Petitioner, and Respondents have identified or produced none;

d. No finding of changed circumstances justifying re-detention was provided or disclosed to Petitioner;

e. No authorized decisionmaker responsible for the custody determination has ever been identified to Petitioner or to her counsel; and

f. No new derogatory information about Petitioner has been identified or disclosed. So far as the record reflects, the facts known to Respondents on the day of her arrest were the facts known to the United States government on the day it inspected her and paroled her into the country, with the addition only of a filed asylum application and a completed biometrics appointment.

E. Petitioner has no forum in which to seek release.

61. No custody classification, custody determination, or statutory basis for Petitioner's detention has been disclosed to her or her counsel. On information and belief, Respondents are treating Petitioner as an applicant for admission detained under 8 U.S.C. section 1225(b)(2)(A). To the extent they are, the custody-review mechanism of the immigration court operates on determinations made under 8 C.F.R. part 1236, *see* 8 C.F.R. section 1003.19(a), and does not furnish a person so classified a bond hearing; section 1003.19(h)(2)(i)(B) confirms that, once removal proceedings are commenced, arriving aliens remain excluded from immigration judge custody redetermination. On that treatment, Petitioner is barred from a bond

hearing regardless of her equities, her compliance history, or the absence of any criminal record.

62. The only remaining avenue is a discretionary request that Respondents themselves re-parole her. Whatever else may be said of that process, it does not furnish a neutral custody adjudication equivalent to a bond hearing, and it is not a substitute for the process the Constitution requires.

63. Any exhaustion requirement is excused as futile. To the extent Respondents are treating Petitioner as subject to mandatory detention that no immigration judge may review, there is no administrative remedy to exhaust. *See Lorenzo C. P. v. Noem*, No. 1:25-CV-181, 2025 WL 3684859, at *5 (S.D. Tex. Oct. 31, 2025); *Shi v. Lyons*, No. 1:25-CV-274, 2025 WL 3637288, at *4 n.6 (S.D. Tex. Dec. 12, 2025).

64. Petitioner has been detained continuously since her arrest, a period whose precise length is known to Respondents. During that entire period, no neutral decisionmaker has ever considered whether her detention is necessary to prevent flight or to protect the public, and Respondents have made no neutral custody-review proceeding available to her.

INFORMATION REQUIRED BY LOCAL RULE CV-3(B) AND THE COURT'S SECTION 2241 FORM

65. Pursuant to Local Rule CV-3(b)(2), Petitioner sets forth the information requested in the Court's form for petitions under 28 U.S.C. section 2241 (Form AO 242), to the extent not already stated above.

66. Other names used. Petitioner has used no other names, and her asylum application discloses no other names, maiden names, or aliases.

67. Place of confinement. El Paso Processing Center, 8915 Montana Ave, El Paso TX 79925.

68. Basis of custody and decision or action challenged. Petitioner challenges her civil immigration detention by Immigration and Customs Enforcement, commenced after her March 11, 2026 biometrics appearance, on a date recorded in Respondents' records, following a vehicle stop in which she was a passenger, without notice, an individualized custody determination, or access to a bond hearing. No Notice to Appear or other charging document has been served on Petitioner or provided to her counsel; no removal proceeding is pending against her; and she is not subject to any removal order, reinstated removal order, or exclusion order of which counsel is aware.

69. Administrative remedies and appeals. Petitioner has not sought custody redetermination from an immigration judge because no custody determination under 8 C.F.R. part 1236 has been disclosed to her or her counsel, and, to the extent Respondents are treating her as an arriving alien detained under 8 U.S.C. section 1225, the bond-review mechanism described in 8 C.F.R. section 1003.19(a) does not furnish review of that custody; section 1003.19(h)(2)(i)(B) further confirms that,

once removal proceedings are commenced, arriving aliens remain excluded from immigration judge custody redetermination. Any such request would be futile for the reasons stated above. No administrative custody decision has been disclosed from which Petitioner could appeal to the Board of Immigration Appeals, and she has filed no such appeal. She has not sought review in any court of appeals.

70. Prior petitions. Petitioner has not previously filed any petition, application, or motion concerning the detention challenged here in this or any other federal court.

71. Grounds and relief. The grounds for relief are set forth in the Claims for Relief below, and the relief requested is set forth in the Prayer for Relief.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment Right to Due Process: Unlawful Re-Detention

72. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

73. Individuals released on parole or other forms of conditional release have a liberty interest in their "continued liberty." *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). That liberty is protected by the Due Process Clause because, "although indeterminate, [it] includes many of the core values of unqualified liberty," such as the ability to be gainfully employed and to live among family and friends, "and its

termination inflicts a grievous loss" on the released individual and often on others. Id.

74. Due process therefore guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of a person's release. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970); *Morrissey*, 408 U.S. at 485. To guarantee against arbitrary re-detention, due process requires "adequate procedural protections" ensuring that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint. *Zadvydas*, 533 U.S. at 690.

75. The three-factor framework of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), confirms that Petitioner was entitled to process she never received.

76. First, the private interest is at its zenith. Petitioner was deprived of an established and fundamental interest in her physical liberty. The United States government affirmatively paroled Petitioner and released her into the community in September 2023, and she remained there for nearly two and a half years at a minimum, residing at one address, filing a lawful application for protection, and appearing for every appointment the government scheduled.

77. Second, the risk of erroneous deprivation is high and the value of additional process is correspondingly great. Without any hearing before a neutral decisionmaker, there is no mechanism at all to test whether detention serves its only permissible regulatory purposes, the prevention of flight and the protection of the public. Here that risk is not hypothetical. Petitioner has no criminal history, a fixed address, and

a pending application for protection that gives her every incentive to appear. A hearing would have surfaced each of those facts. No hearing was held.

78. Third, the government's interest in re-detaining, without a hearing, a person it previously released is low. Respondents have generalized interests in ensuring appearance at proceedings and protecting the community, but any such concerns can be squarely addressed through an individualized custody hearing. *See Molina-Sanchez*, ECF No. 6, at 5. Providing notice and a hearing before revoking release requires the expenditure of finite resources, but those costs are modest and are far outweighed by the risk of erroneous deprivation of the liberty interest at stake.

79. Nor was Petitioner's arrest itself the product of any individualized assessment of her. She was a passenger in a stopped vehicle. Respondents cannot locate the justification for Petitioner's re-detention in the ending of her parole, whether that parole expired or was terminated. The ending reflected in the current I-94 record occurred on June 12, 2025, many months before her arrest, and Respondents left her at liberty throughout the intervening period while their own department processed her application for protection and collected her biometrics. Whatever prompted the arrest, it was not the ending of her parole.

80. Respondents revoked Petitioner's liberty and took her into custody without affording her written notice, an opportunity to be heard, or any determination by a neutral decisionmaker. Her re-detention therefore violates the Due Process Clause of the Fifth Amendment.

81. This District has already decided the question on closely analogous facts. In *Marceau v. Noem*, the court held that "even if Respondents' contention that [Petitioner] is an 'arriving alien' is correct as a matter of statutory construction, [Petitioner's] constitutional interest in [his] liberty exists above and apart from the [INA] and attendant regulations," because the petitioner "was paroled and released into the country, where [he] has been living at liberty for over two years," and "[r]egardless of whether [Petitioner's] parole has expired or been terminated, Respondents may not revoke that liberty without an individualized determination of the need to do so." No. EP-26-CV-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026), quoted in *Molina-Sanchez v. Bondi*, No. 1:26-CV-518-RP, ECF No. 6, at 4 (W.D. Tex. Mar. 13, 2026).

82. The court in *Rodriguez v. Bondi* granted release to a petitioner whose parole under 8 U.S.C. section 1182(d)(5)(A) had likewise expired before his detention, holding that because the government "released Petitioner and permitted him to live in the United States for over three years, they cannot revoke that liberty without an individualized determination of the need to do so." No. EP-26-CV-00292-DB, 2026 WL 523055, at *2 (W.D. Tex. Feb. 25, 2026), quoted in *Molina-Sanchez*, ECF No. 6, at 4-5. The same reasoning applies here.

83. Other courts in this District have granted relief on due process grounds after *Buenrostro-Mendez*. *See Hassen v. Noem*, No. EP-26-CV-00048-DB, 2026 WL 446506, at *2 & n.1 (W.D. Tex. Feb. 9, 2026); *Clemente Ceballos v. Garite*, No. EP-26-CV-00312-DB, 2026 WL 446509, at *2 & n.2 (W.D. Tex. Feb. 10, 2026);

Cumbe Lema v. De Anda-Ybarra, No. EP-26-CV-249-KC (W.D. Tex. Feb. 9, 2026); *Hernandez v. ICE Field Office Director*, No. EP-26-CV-67-KC, 2026 WL 503958, at *2 (W.D. Tex. Feb. 23, 2026); *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *6-*7 (W.D. Tex. Oct. 16, 2025); *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859, at *3-*4 (W.D. Tex. Oct. 21, 2025); *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-*14 (W.D. Tex. Oct. 2, 2025).

84. Respondents may be expected to answer that Petitioner is subject to the entry fiction and is therefore "treated for due process purposes as if stopped at the border" under *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020). *Thuraissigiam* does not foreclose Petitioner's due process claim. Two distinctions control. First, Petitioner does not challenge the admission process or assert a right to remain in the United States; she seeks only an opportunity to apply for release. Second, the petitioner in *Thuraissigiam* was stopped within twenty-five yards of the border, immediately detained, and never released, whereas Petitioner was released into the interior and lived here for years. *See Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 682-84 (W.D. Tex. 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *7-*8 (W.D. Tex. Oct. 21, 2025).

COUNT TWO

Violation of the Fifth Amendment Right to Due Process: Detention Without Any Custody Hearing

85. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

86. Civil immigration detention is constitutionally permissible only when it serves its intended regulatory purpose of ensuring a noncitizen's presence at removal proceedings or effectuating removal. Detention that is not tethered to those purposes, and that proceeds without adequate procedural safeguards, violates the Due Process Clause. *Zadvydas*, 533 U.S. at 690-91.

87. Petitioner has been detained since her arrest, continuously and without interruption, without any individualized determination by any neutral decisionmaker that her continued detention is necessary. The denial is categorical rather than individualized: on Respondents' apparent treatment of her, no immigration judge will consider her custody, whatever the facts, and Respondents have disclosed no other neutral forum that will.

88. The regulatory tether for the detention is also badly weakened. To the extent Respondents rely on section 1225(b)(2)(A), that provision contemplates detention "for a proceeding under section 1229a." 8 U.S.C. section 1225(b)(2)(A). Respondents have not commenced any such proceeding against Petitioner, while simultaneously affording her no neutral custody adjudication of any kind. Detention held out as serving a removal proceeding that has not been commenced, with no individualized review, is detention drifting from the regulatory purpose that justifies civil confinement, and it magnifies each Mathews factor discussed above. See *Zadvydas*, 533 U.S. at 690-91.

89. A categorical bar of that kind is the constitutional problem, not merely a procedural inconvenience. Petitioner is not asking a neutral decisionmaker to reach a particular result. She is asking that some neutral decisionmaker consider the question. None will.

90. The categorical denial takes no account of Petitioner's individual circumstances, including her lack of any criminal history of record, her stable residence at a single address for nearly two and a half years at a minimum, her documented record of compliance with every government appointment and requirement, her pending application for protection, and the absence of any allegation that she has ever violated a condition of release.

91. Due process requires, at a minimum, that Petitioner receive a hearing before a neutral adjudicator at which the government bears the burden of proving by clear and convincing evidence that she poses a danger to the community or a risk of flight. *See Addington v. Texas*, 441 U.S. 418, 425-27 (1979) (by analogy). Courts in this District have ordered hearings on that structure and on compressed timelines. See *Gomes v. Garite*, No. EP-25-CV-00663-DCG, 2026 WL 1179617, at *10 (W.D. Tex. Apr. 21, 2026) (bond hearing within seven days, with twenty-four hours notice); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025).

92. Nor would a characterization of detention under section 1225(b) as "mandatory" withstand scrutiny. A person detained under that section may still be released on parole for urgent humanitarian reasons or significant public benefit, provided she presents neither a security risk nor a risk of absconding. 8 U.S.C. section

1182(d)(5)(A); 8 C.F.R. section 212.5(b). A determination that Petitioner is neither a flight risk nor a danger is therefore not irrelevant to the availability of parole or to the justification for her continued detention. *See Molina-Sanchez*, ECF No. 6, at 6.

93. Because these protections derive from the Constitution rather than from any particular detention statute, they apply regardless of whether the Court concludes that Petitioner is detained under 8 U.S.C. section 1226(a) or 8 U.S.C. section 1225(b)(2)(A). *See Zadvydas*, 533 U.S. at 695; *Clark*, 543 U.S. at 380. *Buenrostro-Mendez* addressed only statutory interpretation and does not preclude consideration of constitutional claims. *See Mendoza v. Noem*, No. 5:26-CV-728-JKP, ECF No. 9, at 7 (W.D. Tex. Feb. 26, 2026).

COUNT THREE

Detention Contrary to 8 U.S.C. Section 1226(a) and the Bond Regulations

94. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

95. Petitioner's detention is governed by 8 U.S.C. section 1226(a), which permits release on bond or conditional parole, and not by 8 U.S.C. section 1225(b)(2)(A). Section 1225(b)(2)(A) is an inspection statute that operates at the moment of examination; Petitioner's examination concluded at the Fort Lauderdale port of entry on September 17, 2023, when a CBP officer inspected her and exercised the parole authority conferred by 8 U.S.C. section 1182(d)(5)(A). Respondents' own

arrival record documents both the completed inspection and the parole that followed it. See Exhibit B. Any contrary construction is also irreconcilable with the agencies' longstanding position that applicants for admission remain "eligible for bond and bond redetermination," 62 Fed. Reg. at 10323, and with the bond regulations at 8 C.F.R. sections 236.1, 1236.1, and 1003.19.

96. Petitioner acknowledges, as candor requires, that the Fifth Circuit held in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), that section 1225(b)(2)(A) mandates detention without bond for persons who are applicants for admission. That decision addressed noncitizens who entered without inspection; whether the provision continues to supply detention authority over a port-of-entry parolee whose parole has ended was not presented and was not decided. Petitioner further acknowledges that one district court outside this Circuit has extended parallel Eighth Circuit reasoning to a parolee, *see Ahmadi v. Mullin*, No. 3:26-cv-00074-PDW-ARS (D.N.D. June 3, 2026), while nonetheless granting habeas relief on due process grounds and requiring a bond hearing within seven calendar days.

97. To the extent this Court concludes that *Buenrostro-Mendez* forecloses this Count, Petitioner pleads it to preserve the issue for rehearing *en banc* and for review by the Supreme Court of the United States, and notes that the question has divided the courts of appeals.

98. This Count is preserved, not pressed. Counts One and Two do not depend on it. The Court may assume for purposes of this Petition that Respondents are correct that Petitioner is an applicant for admission detained under section 1225(b)(2)(A), and

Petitioner is still entitled to relief, because her constitutional interest in her liberty exists above and apart from the Immigration and Nationality Act and its regulations. *Marceau*, 2026 WL 368953, at *2.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Issue a writ of habeas corpus, or in the alternative an order directing Respondents to show cause within three days why the writ should not be granted, pursuant to 28 U.S.C. section 2243;

(2) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and is not authorized by 8 U.S.C. section 1225(b)(2)(A);

(3) Order Petitioner's immediate release from custody, under conditions no more restrictive than those in place before the detention at issue, release being the ordinary remedy for unlawful detention, *Munaf v. Geren*, 553 U.S. 674, 693 (2008);

(4) In the alternative, order Respondents to provide Petitioner a custody hearing within seven days before a neutral decisionmaker at which the government bears the burden of establishing by clear and convincing evidence that Petitioner is a danger to the community or a flight risk, and at which the decisionmaker must consider release on bond, conditional parole, and alternatives to detention;

(5) Order that if no such hearing is held within seven days, Petitioner shall be released from custody forthwith;

(6) Order Respondents to notify Petitioner's counsel by electronic mail of the exact location and time of her release, as soon as is practicable and no less than two hours in advance;

(7) Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of this action, except for a bona fide medical emergency, and require forty-eight hours advance written notice to Petitioner's counsel before any transfer;

(8) Enjoin Respondents from re-detaining Petitioner during the pendency of this action or any removal proceedings subsequently commenced against her, following any release ordered by this Court, without first providing notice to Petitioner's counsel and a bond hearing at which Respondents bear the burden of justifying detention by clear and convincing evidence of dangerousness or flight risk;

(9) Order Respondents to produce all records relating to Petitioner's parole, the expiration or termination of that parole, her arrest, and her custody classification;

(10) Order Respondents to file a status report detailing their compliance with the Court's order;

(11) Award Petitioner costs and reasonable attorney fees on any basis justified under law; and

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

Dated: August 17, 2026.

Respectfully submitted,

/S/ Elissa R Stiles

Elissa Stiles, Esq.
Oklahoma Bar No. 34030
RIVAS & ASSOCIATES
PO Box 470348
Tulsa, OK 74147
Telephone: (918) 419-0166
Facsimile: (918) 513-6724
estiles@rivasassociates.com
Counsel for Petitioner

VERIFICATION

I, Elissa Stiles, declare as follows. I am local counsel for Petitioner Laurie Germain in this matter. Petitioner is presently detained by Respondents and is unable to sign and verify this Petition on her own behalf, and I therefore verify it on her behalf pursuant to 28 U.S.C. section 2242. I have read the foregoing Petition for Writ of Habeas Corpus. The factual allegations concerning Petitioner are true and correct to the best of my knowledge, information, and belief, based on the documents attached as Exhibits A through F and on information provided by Petitioner and those acting on her behalf.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 17, 2026.

Respectfully submitted,

/S/ Elissa R Stiles
Elissa Stiles, Esq.
Oklahoma Bar No. 34030
RIVAS & ASSOCIATES
PO Box 470348
Tulsa, OK 74147
Telephone: (918) 419-0166
Facsimile: (918) 513-6724
estiles@rivasassociates.com
Local Counsel for Petitioner