UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Johanna Perozo-Carrasquero, *Petitioner,* v. ROBERT LYNCH, Detroit Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security; TODD BLANCHE, Attorney General of the United States, in their official capacities, *Respondents.*	Case No. 3:26-cv-2029 **PETITION FOR WRIT OF HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner, Ms. Johanna Perozo-Carrasquero ("Petitioner"), is a citizen of Venezuela with no criminal history. Petitioner entered the United States lawfully through a CBP One appointment, presenting herself for inspection at a U.S. port of entry, and receiving parole pursuant to INA § 212(d)(5), in accordance with the procedures established by the government. Petitioner has been detained for eleven (11) months without an individualized bond hearing. Under the *Mathews v. Eldridge* framework, the length and circumstances of Petitioner's detention, together with the absence of meaningful individualized custody review, demonstrate that her continued confinement violates the Fifth Amendment's Due Process Clause. Her prolonged detention and separation from

her family and community cause substantial harm and warrant immediate judicial review pursuant to her Fifth Amendment right to due process.

On September 24, 2025, U.S. Immigration and Customs Enforcement ("ICE") detained Petitioner immediately after her Master Calendar Hearing before the Cleveland Immigration Court. During that hearing, the Immigration Judge had scheduled her Individual Hearing for a future date to adjudicate the merits of her asylum case. However, she was taken into custody despite no criminal, traffic, or other unlawful conduct warranting her arrest. Petitioner is currently detained at Corrections Center of Northwest Ohio in Stryker, Ohio, without the opportunity to seek release on bond, in violation of her constitutional rights and the Immigration and Nationality Act ("INA").

Petitioner has a timely pending asylum appeal before the Board of Immigration Appeals ("BIA"); therefore, the removal order is not administratively final. *See* 8 U.S.C. § 1101(a)(47)(B); *Matter of L-V-K-*, 22 I&N Dec. 976, 978 (BIA 1999). Accordingly, Petitioner's detention is governed by 8 U.S.C. § 1226(a), which provides for an individualized bond determination. Nevertheless, she was unlawfully denied a bond hearing after Respondents classified Petitioner as an "arriving alien" under 8 U.S.C. § 1225(b)(2), even though her arrest occurred in the interior of the United States, where she has lived, worked, and sought lawful protection. The Supreme Court explained in *Jennings v. Rodriguez*, 583 U.S. 285-89 (2018), that 8 U.S.C. § 1225 governs noncitizens "seeking admission into the country" at the border or a port of entry, while 8 U.S.C. § 1226 applies to noncitizens "already in the country pending the outcome of removal proceedings."

Petitioner is currently on U.S. soil and in removal proceedings. She is neither a flight risk nor a danger to the community. She has strong family and community ties and has fully complied with all immigration requirements. Petitioner therefore seeks an order from this Court declaring

her continued detention without the right to bond unconstitutional under the Fifth Amendment and ordering her immediate release or, in the alternative, an expedited individualized bond hearing under 8 U.S.C. § 1226(a).

JURISDICTION

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security (DHS). She is detained at Corrections Center of Northwest Ohio in Stryker, Ohio, and is under the direct control of Respondents and their agents.
2. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.
3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the United States Constitution (Suspension Clause).
4. This 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.
5. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), 1252(f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

6. Venue is proper because Petitioner is detained at Corrections Center of Northwest Ohio in Stryker, Ohio, which is within the jurisdiction of the Northern District of Ohio. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).

7. Venue also lies in this District because Respondents are employees, officers, or agencies of the United States, and a substantial part of the events or omissions giving rise to the claims occurred in the Northern District of Ohio. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

9. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

10. Petitioner Ms. Johanna Perozo-Carrasquero is an asylum seeker and citizen of Venezuela, who lawfully entered the United States on or about May 17, 2024. Petitioner is currently detained at Corrections Center of Northwest Ohio in Stryker, Ohio. She has been in custody

of the Department of Homeland Security (DHS) and under the direct control of Respondents and their agents since September 24, 2025.

11. Respondent Mr. Robert Lynch is sued in his official capacity as the Acting Director of the Detroit Field Office of U.S. Immigration and Customs Enforcement and Removal Operations. Respondent Mr. Lynch is a legal custodian of Petitioner and has the authority to release her.

12. Respondent Mr. Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mr. Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees the U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's custody. Respondent Mr. Mullin is a legal custodian of Petitioner.

13. Respondent Mr. Todd Blanche is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Mr. Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

Lawful Entry, Absence of Criminal Record and Compliance with Asylum Requirements

14. Petitioner Ms. Johanna Perozo-Carrasquero is a 42-year-old citizen of Venezuela with no criminal record in the United States or abroad.

15. On May 17, 2024, Petitioner lawfully entered the United States after being inspected by DHS through the CBP One app at Brownsville, Texas Port of Entry, and was paroled into

the United States pursuant to 8 U.S.C. § 1182(d)(5)(A). Her Form I-94 identifies her Class of Admission as "DT," reflects an arrival date of May 17, 2024, and lists an "Admit Until Date" of April 24, 2026. (*See* Ex. A, I-94.)

16. Petitioner has continuously resided within the United States since she was paroled, specifically in the State of Ohio. (*See* Ex. B, Ohio Identification Card.)

17. On May 20, 2025, Petitioner filed an asylum application before the Immigration Court. (*See* Ex. C, I-589—Stamped Receipt Notice Cover Page.)

18. Petitioner fled Venezuela after being subjected to persecution on account of her political opinion. She cannot safely return to Venezuela as she has a well-founded fear of future persecution.

Petitioner's Warrantless Arrest, Continued Detention and Timely Appeal

19. On September 24, 2025, Petitioner was detained in Cleveland, Ohio, by immigration authorities immediately following the conclusion of her Master Calendar Hearing ("MCH") before the Cleveland Immigration Court.

20. At that hearing, the Immigration Judge set an Individual Hearing for a future date to adjudicate the merits of her asylum claim, thereby advancing her case toward a final determination on her eligibility for protection.

21. However, ICE detained Petitioner even though she had complied with the immigration process and appeared before the Immigration Court as required. Petitioner had committed no traffic offense, criminal violation, or other unlawful act.

22. Petitioner was detained by ICE for several months at Mahoning County Jail in Youngstown, Ohio.

23. On February 20, 2026, Petitioner timely filed an appeal with the BIA challenging the January 22, 2026 order of removal. The BIA acknowledged receipt of the appeal. (*See* Ex. D., Pending Immigration Relief: BIA-Appeal.)

24. On or about April 15, 2026, Petitioner was transferred to Corrections Center of Northwest Ohio in Stryker, Ohio, separated from her family and community (*See* Ex. E, Current Detention Facility.)

Petitioner's Medical Conditions Require Continuity of Care

25. Petitioner has also experienced medical ailments protected under HIPAA. Based on the medical judgment of her medical physician, Petitioner requires regular monitoring and blood testing. Her physician has noted that the interruption of the medical care she was receiving at the Good Samaritan Free Health Center would be detrimental to her overall health and well-being (*See* Ex. F, Physician's Medical Opinion Letter.)

Motion for Bond Rejected on Jurisdictional Grounds

26. Petitioner filed a written Motion for Custody Redetermination before the Immigration Court in Cleveland, Ohio.

27. On June 30, 2026, Petitioner appeared at a bond hearing before the Immigration Judge, but the hearing was not completed as the Honorable Immigration Judge proceeded to declare that he lacked jurisdiction. Therefore, no individualized custody determination was made.

28. As a result of that jurisdictional ruling, the Immigration Judge's written bond decision does not acknowledge, address, or resolve Petitioner's arguments, nor does it indicate that they were considered. It also does not evaluate the evidence presented in the Motion demonstrating that Petitioner is not a flight risk, is not a danger to the community, and has

strong family and community ties. (*See* Ex. G, Immigration Judge's Written Bond Decision.)

29. To date, Petitioner has remained in immigration detention for eleven (11) months without any criminal convictions and without the right to a bond hearing. In addition, she has strong family and community support, including from her sponsor, Mr. Alain Del Pino Dominguez, and her former employer, The Job Center, as well as others who have submitted letters attesting to her good character, responsibility, and commitment to the community. (*See* Ex. H, Sponsor's Affidavit of Support; Ex. I, Employment Certificate; Ex. J, Letters of Support-Evidence of Community Ties.)

30. Petitioner has fully complied with all immigration proceedings to date. However, she has not received an individualized bond hearing before a neutral decision-maker to assess the justification for her detention, and she remains at risk of removal to a country where she fears persecution.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

31. The Court should find administrative exhaustion would be futile. Petitioner has exhausted her administrative remedies to the extent required by law. She has fully cooperated with Respondents and has not delayed or obstructed her detention.

32. Petitioner has pursued the administrative remedy reasonably available to her concerning her present detention. She requested a custody redetermination and sought release on bond before the Immigration Judge. The Immigration Judge denied the request on the ground of "No jurisdiction," without conducting an individualized custody determination. (*See* Ex. G.)

33. Petitioner argues that further appeal to the BIA would be futile in light of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), in which the BIA adopted DHS's interpretation that 8 U.S.C. § 1225(b)(2)(A) mandates detention without bond for noncitizens present in the United States who have not been admitted. The BIA expressly held that "Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." *Id.* at 226. Requiring Petitioner to pursue further administrative review of the same threshold statutory question would substantially delay judicial review of the legality of her continued detention.

34. As the Supreme Court has held, exhaustion is not required where resort to administrative remedies would be futile or inadequate. *See McCarthy v. Madigan*, 503 U.S. 140 (1992).

35. The Sixth Circuit has recognized that, where Congress has not clearly required exhaustion, whether to require it is within the district court's "sound judicial discretion." *Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 145 (1992)). To the extent further exhaustion is required, it is prudential rather than jurisdictional. *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019).

36. Courts in this District have recognized that prudential exhaustion may be excused where a habeas petition presents a legal question and further administrative review would be futile. *See Ruiz-Lara v. Raycraft*, No. 1:26-CV-499, 2026 WL 642988, at 6 (N.D. Ohio Mar. 9, 2026). There, the court held that prudential exhaustion was not required in a § 2241 challenge to detention under § 1225(b)(2)(A) and proceeded to grant habeas relief.

37. Petitioner also raises nonfrivolous constitutional challenges to her continued detention. She has been detained for eleven (11) months, despite having no criminal record and without receiving a merits-based individualized custody determination. Requiring further

administrative proceedings would substantially prolong Petitioner's deprivation of physical liberty.

38. Accordingly, further administrative review would serve no meaningful purpose under the circumstances presented here. Petitioner respectfully requests that the Court excuse any further exhaustion requirement because the administrative remedy is inadequate or ineffective and further pursuit would be futile.

39. Petitioner presents nonfrivolous statutory and constitutional challenges to her continued detention, and further delay would substantially prolong her deprivation of liberty.

40. Therefore, Petitioner has no adequate administrative remedy, and this Court is the only forum capable of providing relief.

LEGAL FRAMEWORK

Due Process Clause

41. The Fifth Amendment to the United States Constitution guarantees that no person shall be "deprived of life, liberty, or property, without due process of law" (U.S. Const. amend. V).

42. The Supreme Court has recognized that the protections of the Due Process Clause apply to all persons within the United States, including noncitizens, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

43. The Due Process Clause affords Petitioner significant protections against unlawful detention. As the Supreme Court has explained, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" safeguarded by the Due Process Clause. *Zadyydas*, 533 U.S. at 690.

44. Due process requires "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's

constitutionally protected interest in avoiding physical restraint." *Id.* (internal quotation marks omitted).

45. In the immigration context, the Supreme Court has recognized only two legitimate purposes for civil detention: preventing flight and protecting the community from danger. *Id.; Demore v. Kim*, 538 U.S. 510, 522, 528 (2003). Detention for any other purpose is unconstitutional.

46. Accordingly, when detention becomes prolonged, or where the noncitizen raises a substantial defense to removal or claims to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether continued detention remains reasonably related to its permissible purposes. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (noting that an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be required "if the continued detention became unreasonable or unjustified"); cf. *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (stating that "lesser safeguards may be appropriate" for "short-term confinement"; *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards").

47. Mandatory detention pending an appeal of a removal order raises a substantial Fifth Amendment claim because the order of removal is not yet final. *See* U.S. Const. amend. V; *see* also 8 U.S.C. § 1101(a)(47)(B); *Matter of L-V-K-*, 22 I&N Dec. 976, 978 (BIA 1999).

48. 8 U.S.C. § 1101(a)(47)(B) provides that an order of removal becomes final when the Board of Immigration Appeals (BIA) affirms the order, or when the period for seeking BIA review expires.

49. Due process also requires certain minimum procedural safeguards at bond hearings. These include:

    (1) placing the burden of proof on the government by clear and convincing evidence to justify continued detention;

    (2) requiring the decisionmaker to consider alternatives to detention; and

    (3) when the government fails to meet its burden, requiring the decisionmaker to assess a noncitizen's ability to pay a bond when setting bond conditions.

50. Continued immigration detention implicates significant liberty interests under the Fifth Amendment. The Supreme Court has recognized in contexts involving detention that threatens fundamental liberty that due process requires meaningful procedural safeguards and may demand that the government justify detention by a heightened standard of proof. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pretrial detention where the detainee was afforded a "full-blown adversary hearing" requiring "clear and convincing evidence"); *Foucha v. Louisiana*, 504 U.S. 71, 81–83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas v. Davis*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, *inter alia*, they placed burden on detainee).

51. Due process further requires that a neutral decisionmaker consider available alternatives to detention. Because a principal purpose of immigration detention is to ensure a noncitizen's appearance at removal proceedings, detention must be reasonably related to that objective.

Bell v. Wolfish, 441 U.S. 520, 538 (1979). Prolonged detention without an individualized assessment of flight risk or dangerousness violates due process particularly where, as here, Petitioner has strong community ties and no criminal history.

52. Due process likewise requires consideration of a noncitizen's financial circumstances when a monetary bond is imposed as a condition of release. Where the government has determined that detention without bond is unnecessary, setting a bond that the detainee cannot afford may result in continued detention based solely on inability to pay, rather than on the government's legitimate interests in ensuring appearance and protecting the community. *See Hernandez v. Sessions*, 872 F.3d 976, 990–91 (9th Cir. 2017) (holding that due process requires consideration of a detainee's financial circumstances and available alternatives to monetary bond). Accordingly, a constitutionally adequate bond determination must consider whether the amount set is reasonably attainable by the detainee and whether less restrictive alternatives can reasonably serve the government's interests.

53. Evidence about immigration detention and the adjudication of removal cases provide further support for the due process right to a bond hearing in cases of prolonged detention.

54. Immigration detainees face severe hardships while incarcerated. They are held in lockdown facilities, with limited freedom of movement and access to their families. As the Supreme Court has observed, "the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails," and "in some cases the conditions of their confinement are inappropriately poor." *Jennings v. Rodriguez*, 138 S. Ct. 830, 861 (2018) (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG),

DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017)).

55. These harsh conditions only further underscore the serious due process concerns that prolonged immigration detention pose for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding continued detention.

56. Under the Fifth Amendment, prolonged detention without individualized consideration of flight risk, dangerousness, alternatives to detention, and ability to pay violates due process.

57. The Sixth Circuit has recognized that noncitizens physically present within the United States are protected by the Due Process Clause and possess a protected liberty interest in freedom from physical detention. *Lopez-Campos v. Raycraft*, Nos. 25-1965, 25-1969, 25-1978, 25-1982, 2026 WL 1283891, at *11–13 (6th Cir. May 11, 2026); *Zadvydas*, 533 U.S. at 693.

58. In *Lopez-Campos*, the Sixth Circuit upheld the lower court's determination that the petitioners' detention without bond under 8 U.S.C. § 1226(a) constituted a deprivation of liberty that violated the Due Process Clause. *Lopez-Campos*, 2026 WL 1283891, at *13.

59. Applying the BIA's own standards, Petitioner is entitled to release on bond. According to *Matter of Patel*, 15 I. & N. Dec. 666 (BIA 1976), detention is appropriate when an individual poses a risk of flight, a danger to public safety, or a threat to national security. In assessing bond eligibility and determining its appropriate amount, the Court should consider factors such as employment, length of residence, the existence of family ties, lack of criminal history and no prior immigration violations. *See Matter of Spiliopoulos*, 16 I. & N. Dec. 561 (BIA 1978) (citing *Matter of Patel*, 15 I. & N. Dec. 666 (BIA 1976)).

60. All these considerations strongly support Petitioner's release on bond.

Detention Authority

61. The Immigration and Nationality Act ("INA") establishes three (3) principal detention regimes governing most noncitizens placed in removal proceedings as follows:

    (1) 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Noncitizens detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to an individualized bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). By contrast, 8 U.S.C. § 1226(c) mandates detention without bond for a narrowly defined class of noncitizens who have been arrested for, charged with, or convicted of specific criminal offenses, for the duration of their removal proceedings.

    (2) INA mandates detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1), as well as certain recent arrivals "seeking admission" under 8 U.S.C. § 1225(b)(2).

    (3) INA authorizes detention of noncitizens who have received a final order of removal from the United States pursuant to 8 U.S.C. § 1231(a)–(b).

62. The Supreme Court has repeatedly held that civil immigration detention is constitutionally permissible only when it is reasonably limited in duration and accompanied by adequate procedural safeguards. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001) (holding that indefinite civil detention raises serious constitutional problems); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (upholding mandatory detention only as brief and finite); *Jennings v. Rodriguez*, 583 U.S. 281, 308–09 (2018) (confirming that constitutional challenges to prolonged detention remain available).

63. Limitations on Immigration Judge bond authority do not divest Federal Courts of their longstanding habeas jurisdiction. Pursuant to 28 U.S.C. § 2241, courts retain the power to review whether immigration detention is authorized by statute and consistent with the Constitution. Even where the agency asserts mandatory detention under 8 U.S.C. § 1225(b), Federal Courts retain authority to determine whether such detention exceeds statutory limits or violates due process.

64. As the Supreme Court has explained, habeas courts remain the proper forum for resolving constitutional challenges to immigration detention. *Jennings v. Rodriguez*, 583 U.S. at 308–09. Accordingly, this Court may grant habeas relief, including ordering an individualized bond hearing, where categorical detention without individualized review is unlawful.

65. The statutory text supports the conclusion that the Petitioner remains entitled to an individualized bond hearing under § 1226(a). 8 U.S.C. § 1226(a) establishes the default framework for detention pending removal proceedings and expressly authorizes release on bond. By contrast, 8 U.S.C. § 1226(c) mandates detention without bond for noncitizens with certain criminal convictions or those who have engaged in terrorist activities. Because the Petitioner does not meet these criteria, § 1226(c) is inapplicable.

66. DHS's characterization of Petitioner as an "arriving alien" does not, standing alone, establish that 8 U.S.C. § 1225 governs Petitioner's present detention. Although Petitioner entered the United States pursuant to DHS-authorized parole and parole does not constitute an admission under the INA, Petitioner has remained physically present in the United States and has a pending application for asylum. *See* 8 U.S.C. §§ 1101(a)(13)(B), 1182(d)(5)(A). DHS therefore must identify the specific statutory basis authorizing

Petitioner's continued detention and establish that the requirements of that provision are satisfied; it cannot rely solely on the "arriving alien" label.

67. Petitioner's continued detention is particularly unwarranted where Petitioner has no criminal record and is not detained on the basis of any criminal conviction or conduct. While the absence of a criminal record does not itself determine the applicable detention authority, it further underscores the need for DHS to identify a valid statutory basis for Petitioner's continued custody.

68. Moreover, because the Petitioner does not have a final order of removal from the United States, mandatory detention under 8 U.S.C. § 1231(a)–(b) is likewise inapplicable.

69. Petitioner, who has no criminal history, lawfully entered the United States under parole, timely applied for asylum, and is not subject to a final order of removal, falls solely within ICE's discretionary detention authority under 8 U.S.C. § 1226(a). Any detention beyond this discretionary framework lacks statutory basis and violates Petitioner's right to due process. This provides an independent statutory basis for habeas relief.

Prolonged Detention

70. Since the Supreme Court's decision in *Jennings*, 583 U.S. 281 (2018), courts have continued to recognize that as applied due process challenges to mandatory detention remain available and that, when detention becomes unreasonably prolonged, the Due Process clause requires an individualized bond hearing before a neutral decisionmaker to determine whether continued detention remains justified. *See*, e.g., *Reid v. Donelan*, 17 F.4th 1 (1st Cir. 2021); *Black v. Decker*, 103 F.4th 133 (2d Cir. 2024); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020). Although the Sixth Circuit has not directly ruled on this issue, it has previously recognized serious procedural due

process concerns arising from prolonged mandatory detention. *See Ly v. Hansen*, 351 F.3d 263, 273 (6th Cir. 2003) (statutory holding abrogated by Jennings, 583 U.S. 281).

71. The *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework provides the appropriate standard for evaluating whether prolonged immigration detention violates the Due Process Clause, and courts within the Sixth Circuit have applied that framework in assessing such claims. *See*, e.g., *Kaur v. Adducci*, No. 4:25-CV-2679, 2026 WL 100588, at *9 (N.D. Ohio Jan. 14, 2026); *M.T.B. v. Byers*, No. CV 2:24-028-DCR, 2024 WL 3881843, at *2 (E.D. Ky. Aug. 20, 2024); *Martinez-Elvir v. Olson*, No. 3:25-CV-589-CHB, 2025 WL 3006772, at *11 (W.D. Ky. Oct. 27, 2025); *Cf. United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Mathews v. Eldridge* framework to analyze a due process claim in the context of removal proceedings).

72. The *Mathews* framework requires consideration of three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional procedural safeguards"; and (3) "the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." *Mathews*, 424 U.S. at 335.

CLAIMS FOR RELIEF

COUNT ONE

Prolonged Detention Without an Individualized Custody Determination Violates the Fifth Amendment's Due Process Clause

73. The allegations in the above paragraphs are realleged and incorporated herein.

74. The Fifth Amendment provides that no person shall "be deprived of life, liberty, or property, without due process of law." *See* U.S. Const. amend. V.

75. The Due Process Clause protects noncitizens who are physically present in the United States, regardless of whether their presence is lawful, unlawful, temporary, or permanent. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Freedom from physical detention is a significant liberty interest protected by the Due Process Clause. *Id.* at 690.

76. Petitioner has been continuously detained by immigration authorities for eleven (11) months without the right for an individualized bond hearing.

77. Under the *Mathews v. Eldridge* framework, Petitioner's continued mandatory detention without meaningful custody review violates her rights under the Due Process Clause.

78. The first *Mathews* factor weighs heavily in Petitioner's favor because she has a substantial private interest in remaining free from physical confinement. As the Supreme Court recognized, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects." *See Zadvydas*, 533 U.S. at 690. Indeed, "[i]t is difficult to imagine a more significant liberty interest than an individual's interest in being free from unnecessary confinement." *See M.T.B.*, 2024 WL 3881843 at *3.

79. The Sixth Circuit has recognized that noncitizens physically present within the United States are protected by the Due Process Clause and possess a protected liberty interest in freedom from physical detention. *See Lopez-Campos v. Raycraft*, Nos. 25-1965, 25-1969, 25-1978, 25-1982, 2026 WL 1283891, at *11–13 (6th Cir. May 11, 2026); *Zadvydas*, 533 U.S. at 693.

80. In *Lopez-Campos*, the Sixth Circuit upheld the lower court's determination that the petitioners' detention without bond under 8 U.S.C. § 1226(a) constituted a deprivation of liberty that violated the Due Process Clause. *See Lopez-Campos*, 2026 WL 1283891, at *13. Therefore, the first *Mathews* factor strongly supports Petitioner's position.

81. The second *Mathews* factor also weighs strongly in favor of Petitioner because the risk of erroneous deprivation of her liberty is substantial where no neutral decisionmaker has ever assessed her risk of flight or dangerousness.

82. With respect to the third *Mathews* factor, consideration of "the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail" is required. *See Mathews*, 424 U.S. at 335. Although the government has a legitimate interest in ensuring that persons subject to removal appear for proceedings and do not pose a danger to the community, there is no showing that continued detention is necessary to serve those interests here. Petitioner has cooperated with DHS and has attended all of her proceedings. Petitioner also has an asylum appeal pending before the BIA and has complied with all deadlines set by the Court. Therefore, the government's interests do not justify Petitioner's continued and prolonged detention without meaningful custody review.

83. The duration of Petitioner's detention is constitutionally significant. Petitioner has now been confined for eleven (11) months while her removal proceedings remain pending.

84. Petitioner's circumstances further demonstrate the need for individualized custody review. She has no criminal history, has actively pursued her immigration proceedings, timely appealed the Immigration Judge's removal order, and has never been found, following an

individualized custody assessment, to present a danger to the community or a substantial risk of flight.

85. Accordingly, Petitioner's continued detention without a meaningful individualized custody determination violates the Fifth Amendment and warrants immediate release by this Court or, in the alternative, an expedited individualized bond hearing.

COUNT TWO

Respondents Unlawfully Denied Petitioner an Individualized Custody Determination By Treating Her "Arriving Alien" Classification as Sufficient to Subject Her to Mandatory Detention Under 8 U.S.C. § 1225(b)(2)(A)

86. The allegations in the above paragraphs are realleged and incorporated herein.

87. Petitioner does not contend that her parole constituted an admission to the United States. Rather, Petitioner challenges Respondents' treatment of her "arriving alien" classification as sufficient, standing alone, to subject her present detention to the mandatory-detention provisions of 8 U.S.C. § 1225(b)(2)(A) and to deny her individualized custody review.

88. Sections 1225 and 1226 establish distinct statutory detention regimes. Section 1225(b)(2)(A) provides for mandatory detention of certain applicants for admission, while § 1226(a) generally governs arrest and detention pending a decision on whether a noncitizen is to be removed and permits release on bond or conditional parole. *See* 8 U.S.C. §§ 1225(b)(2)(A), 1226(a); *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018).

89. In *Lopez-Campos v. Raycraft*, the Sixth Circuit held that § 1225(b)(2)(A) did not govern the detention of noncitizens who were physically present in the interior and had not affirmatively sought admission or lawful entry. The court concluded that § 1226 governed

their detention and that they were entitled to individualized custody review. Nos. 25-1965, 25-1969, 25-1978, 25-1982, 2026 WL 1283891, at *3–13 (6th Cir. May 11, 2026).

90. Although *Lopez-Campos* did not involve a noncitizen who, like Petitioner, presented herself for inspection through CBP One and was thereafter paroled into the United States, its distinction between the detention regimes under §§ 1225 and 1226 confirms that an "arriving alien" designation does not, by itself, resolve the statutory basis for a noncitizen's subsequent detention in the interior.

91. Petitioner's circumstances are materially similar to those considered in *Shirinova v. Raycraft*, No. 1:26-cv-1248, slip op. at 2–3, 11 (W.D. Mich. June 8, 2026). There, the petitioner likewise presented herself through CBP One, was charged under § 1182(a)(7)(A)(i)(I), was paroled into the United States with a "DT" Class of Admission, applied for asylum, was subsequently detained by ICE, received an Immigration Judge's removal order, and timely appealed to the BIA. The court concluded that § 1226(a) governed while the BIA appeal remained pending and granted habeas relief under § 2241.

92. Petitioner's timely BIA appeal likewise means that her removal order is not administratively final while the appeal remains pending. *See* 8 U.S.C. § 1101(a)(47)(B); 8 C.F.R. § 1241.1(a); *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 (2021). Therefore, § 1231 does not provide an independent basis for Petitioner's present detention.

93. Respondents thus cannot deny Petitioner individualized custody review merely by relying on her "arriving alien" designation without establishing the specific statutory authority that governs her present detention.

94. Accordingly, Respondents have unlawfully denied Petitioner custody review and have continued to deprive her of liberty without establishing an adequate statutory basis for denying individualized custody review.

95. Petitioner therefore requests that this Court order her immediate release or, in the alternative, require Respondents to provide a lawful and individualized custody determination.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Honorable Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause directing Respondents to show cause why this Petition should not be granted within three (3) days;
3. Declare that Petitioner's detention without an individualized determination violates the Fifth Amendment's Due Process Clause;
4. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately from custody; hold a hearing if warranted; and determine that Ms. Johanna Perozo-Carrasquero's detention is not justified because the government has not established by clear and convincing evidence that he presents a risk of flight or a danger to the community in light of the available alternatives;
5. Issue an Order prohibiting Respondents from transferring Petitioner from the district or the United States without the Court's approval;
6. Declare that Ms. Perozo-Carrasquero's continued detention is unconstitutional and unlawful, as it is not reasonably related to any valid purpose of immigration detention and violates the Fifth Amendment guarantee of due process;

7. In the alternative, should the Court determine that immediate release is not warranted, order Respondents to provide Ms. Perozo-Carrasquero with an expedited individualized bond hearing before an impartial Immigration Judge, as soon as practicable and in no event later than seven (7) days from the Court's order, at which the government bears the burden to justify continued detention by clear and convincing evidence, ensuring that Petitioner receives meaningful access to relief in accordance with the Fifth Amendment's Due Process Clause;
8. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
9. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ *Joseph Mamari*
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COUNSELS FOR PETITIONER
Dated: August 24, 2026.

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

I represent Petitioner, Ms. Johanna Perozo-Carrasquero, and submit this verification on his 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 24th day of August, 2026.

/s/ Brian Luciano-Vazquez
Brian Luciano-Vazquez (PR Bar No. 23507)
(PHV forthcoming)