UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MARTA CESILIA ESCALANTE PEREZ,

Petitioner;

v.

JULIO HERNANDEZ, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations; TODD LYONS, Acting Director of U.S. Immigration Customs Enforcement; KRISTI NOEM, Secretary of U.S. Department of Homeland Security; PAMELA BONDI, Attorney General of the United States; BRUCE SCOTT, Warden, Northwest ICE Processing Center; and EOIR.

Respondents.

Case No.:

Agency No. A-file No. XXX-XXX-118

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

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INTRODUCTION

1. For years, Petitioner suffered from sexual assault, physical abuse, and mistreatment in Guatemala. So, in October 2015, she sought asylum in the United States.

2. Petitioner entered the United States, presented herself to a United States immigration agent to apply for asylum, and, after investigation and reviewing her case, the Department of Homeland Security released on her own recognizance, with conditions.

3. For almost a decade, Petitioner regularly and consistently complied with her release conditions—including during the upside-down time of the COVID-19 pandemic.

4. In fact in 2023, the Department of Homeland Security moved to dismiss the entire removal proceedings because, in the its own words, the DHS "has reviewed the facts and circumstances of this case and determined that circumstances after issuance of the Notice to Appear have changed to such an extent that continuation is no longer in the best interest of the government." And, then, the Immigration Court dismissed the proceedings.

5. But, in 2025, DHS smashed the window of a passenger van she was riding in to work and arrested her again during a DHS operation in which ICE agents make unprovoked, destabilizing community sweeps throughout Oregon, *M-J-M-A- v. Hermosillo*, 6:25-cv-02011-MTK, Dkt. 88 at 2 (D.Or. Feb. 27, 2026). DHS arrested and detained Petitioner not for anything particular about her; but, rather, DHS had a detention quota to meet. So, in spite of her years and years of compliance with the conditions of release *and* that DHS had entirely ceased its action to remove her from the United States, she was taken from Oregon and her family and transported rapidly to the immigration detention center in Tacoma, Washington.

6. This time, DHS held Ms. Escalante Perez in so-called "mandatory detention" as an "applicant for admission" under 8 U.S.C. § 1225(b) in spite of two class actions

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adjudging that type of custody to be unlawful for people like Ms. Escalante Perez. Indeed, she was forced to file a petition for habeas corpus in this district court, which was granted on November 26, 2025. *Del Valle Castillo, et. al. v Wamsley*, 2:25-cv-02054-TMC, Dkt. 28 (W.D. Wash. Nov. 26, 2025). The district court ordered that Ms. Escalante Perez was entitled to a constitutionally fair hearing on her bond. *Id.* at 17.

7. On December 9, 2025, an Immigration Judge at the Tacoma Immigration Court held a hearing pursuant to the district court's order. At the hearing—which lasted just a few minutes—the Immigration Judge issued a "No Bond" order. The Immigration Judge concluded – despite Ms. Escalante's significant ties to the community and despite her record of having appeared at all scheduled hearings before the non-detained immigration court– that she was a flight risk and that there were *no* conditions, including the posting of bond, under which she could be released to mitigate any perceived flight risk.

8. But that No Bond order was the product derived from a constitutionally deficient hearing. Under the Due Process Clause of the Fifth Amendment, there are *no* circumstances in which the IJ could have plausibly concluded that Ms. Escalante Perez posed a flight risk, much less that she was such an extreme flight risk that *no amount* of bond and no set of conditions could possibly mitigate. Not only that, but the IJ failed to consider the factors required to make a bond determination under the Immigration and Nationality Act ("INA") and its implementing regulations. *See* 8 U.S.C. § 1226(a). The Immigration Judge's "no bond" order for flight risk subverts the statutory design.

9. Not only did the hearing fail to meet the constitutional standard and fail to comply with the statutory design, the IJ found *no* facts and provided *no* legal reasoning to support the *de facto* order for mandatory detention. Instead, the IJ merely checked a box on a

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boilerplate order form that said, "Flight Risk" and left it at that, thereby prolonging her unlawful executive detention without providing any meaningful analysis. The agency's own guidance requires that IJs review several factors in making bond determinations. *See Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006); *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 805 (BIA 2020).

10. To restrain an individual's liberty, the Due Process Clause of the Fifth Amendment, the INA, and agency rules all require the Government to do more than check boxes or justify detention after-the-fact.

11. The Court should grant the petition and order Ms. Escalante Perez's immediate release under the prior conditions of her release.

JURISDICTION

12. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 et seq.

13. This court has subject matter jurisdiction and may grant relief under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

14. This Court has jurisdiction to review bond hearings for errors of law, including as to whether the IJ properly concluded someone is a flight risk or danger to the community. *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024).

15. 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.

VENUE

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16. Venue is proper because Petitioner is in Respondents' custody at the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the judicial district in which Petitioners are currently in custody.

17. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Washington.

REQUIREMENTS OF 28 U.S.C. § 2241, 2243

18. 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 OSC 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.*

19. 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

20. Petitioner **Marta Cesilia Escalante Perez** is 29 years old. She is a resident of Woodburn, Oregon. She is currently detained in Respondents' custody at the NWIPC in Tacoma, Washington.

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21. Respondent **Julio Hernandez** is the Field Office Director for ICE's Seattle Field Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington; thus, Hermosillo is a legal custodian of Petitioner.

22. Respondent **Todd Lyons** is the acting director of ICE, and he has authority over the actions of respondent Laura Hermosillo and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

23. Respondent **Pamela Bondi** is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

24. Respondent **Bruce Scott** is employed by the private corporation The GEO Group, Inc., as Warden of the NWIPC, where Petitioner is detained. He has immediate physical custody of Petitioner.

25. Respondent **Kristi Noem** is the Secretary of Homeland Security and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is charged with faithfully administering the immigration laws of the United States and is a legal custodian of Petitioner.

26. Respondent **EOIR** is the federal agency that has authority over the actions of the immigration court.

27. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

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Detention Authority under the Immigration & Nationality Act

28. The Immigration and Nationality Act authorizes the DHS to detain noncitizens who are in removal proceedings. This case concerns the detention provision at 8 U.S.C. § 1226(a) and its implementing regulations.

29. To be constitutional, civil immigration detention must be non-punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (2001). The government may not detain a noncitizen unless needed to prevent flight or danger to society. *Id*. Due process requires both that immigration detention be "'reasonabl[y] relat[ed]"' to its purposes of preventing flight and danger to the community, and that it be accompanied by adequate procedures to ensure those purposes are met. *Id.* at 690-91 (citation omitted). *Accord Demore v. Kim*, 538 U.S. 510, 527 (2003).

30. In making release decisions under § 1226(a), the regulations provide that a noncitizen must demonstrate he or she does not pose a danger to property or persons, and that he or she is "likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8); *see also Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006).

31. The Government must consider a range of evidence, some of which is objective, and some of which may require the Government to evaluate the credibility of the noncitizen and other witnesses. The factors the Government should consider are:

a) whether the noncitizen has a fixed address in the United States;

b) the noncitizen's length of residence in the United States;

c) the noncitizen's family ties in the United States, and whether they may entitle the noncitizen to reside permanently in the United States in the future;

d) the noncitizen's employment history;

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e) the noncitizen's record of appearance in court;

f) the noncitizen's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses;

g) the noncitizen's history of immigration violations;

h) any attempts by the noncitizen to flee prosecution or otherwise escape from authorities; and,

i) the noncitizen's manner of entry to the United States.

Matter of Guerra, 24 I&N Dec. at 38; *Matter of R-A-V-P-*, 27 I&N Dec. at 805.

32. For noncitizens who may present some level of flight risk, the Government must also consider the noncitizen's financial ability to pay a bond. *Hernandez v. Sessions,* 872 F.3d 976 (9th Cir. 2017). The Government should consider whether the noncitizen may be released on alternative conditions of supervision, alone or in combination with a lower bond amount, that are sufficient to mitigate flight risk. *Id.* at 986-87.

33. These factors all relate to the core inquiry in a custody determination proceeding before either DHS or EOIR. If the noncitizen is not a danger to the community, the DHS or EOIR must consider whether the noncitizen is a flight risk and, if so, the agencies must consider what conditions of release would best ensure the noncitizen will appear at future proceedings.

34. Because of the liberty interest, there are seldom circumstances where no combination of conditions, including bond, could mitigate any flight risk. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (recognizing the fundamental liberty interest at stake in civil detention); *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (requiring consideration of financial circumstances and alternative release conditions to ensure detention is not used

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when less restrictive means can satisfy the government's interest); *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (requiring the government to prove by clear and convincing evidence that no conditions of release can reasonably assure future appearance). Detention without the possibility of posting bond for flight risk is, as a matter of constitutional law, rare.

Release/Custody Determinations by DHS & IJs

35. Individuals subject to the Government's § 1226(a) detention authority are entitled to a release determination made by DHS; if not released by DHS, they are also entitled to a custody redetermination made by an immigration judge. 8 C.F.R. § 1236.1(c)(8); 8 C.F.R. § 1236.1(d).

36. When purporting to assert initial detention over a noncitizen, DHS must make a custody (or release) determination. 8 C.F.R. § 1236.1(c)(8).

37. DHS documents its decision on ICE Form I-286, Notice of Custody Determination.

38. DHS may release the noncitizen on their own recognizance. 8 U.S.C. § 1226(a)(2)(B) (referring to "conditional parole"); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the INS used the phrase "release on recognizance" as another name for "conditional parole" under 1226(a)"); ICE Form I-220A Order of Release on Recognizance.[1]

39. DHS may also release the noncitizen on the posting of a bond of at least $1,500. 8 U.S.C. § 1226(a)(2)(A); 8 C.F.R. § 103.6; ICE Form I-352, Immigration Bond.[2]

[1] Available at https://www.ice.gov/doclib/detention/checkin/I_220A_OREC.pdf (last visited Feb. 27, 2026)

[2] Available at https://www.ice.gov/doclib/forms/i352.pdf (last visited Feb 27, 2026)

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40. Noncitizens are entitled to a meaningful opportunity to be heard on their custody status before DHS. 8 C.F.R. § 1236.1(c)(8). DHS is required to engage in a "deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Gonzalez v. Joyce*, 2025 WL 2961626, *5 (S.D.N.Y. 2025). "That the Government may believe it has a valid reason to detain [a noncitizen] does not eliminate its obligation to effectuate the detention in a manner that comports with due process." *E.A.T.-B. v. Wamsley*, 795 F.Supp.3d 1316, 1322 (W.D. Wash. 2025). The availability of custody redetermination proceedings by immigration judges does not relieve the DHS from their obligation to follow the law. Any suggestion that "government agents may sweep up any person they wish without consideration of dangerousness or flight risk, so long as the person will, at some unknown future date, be allowed to ask some other official for his or her release, offends the ordered system of liberty that is the pillar of the Fifth Amendment." *Gonzalez*, 2025 WL 2961626 at *5.

41. If DHS does not grant release, a noncitizen is entitled to a meaningful opportunity to be heard on their custody status before an immigration judge. Immigration judges may also grant bond in this custody redetermination hearing. 8 C.F.R. § 1236.1(d); *W.T.M. v. Bondi*, 2026 WL 262583, *1 (W.D. Wash. 2026); *Garcia v. Hyde*, —F.Supp.3d—, 2025 WL 3466312, *8-9 (D.R.I. 2025).

42. The custody decisions—and the proceedings in which those decisions are made before the DHS or EOIR—must be constitutionally adequate and comply with the statute and regulations. *W.T.M*, 2026 WL 262583 at *1; *Garcia*, 2025 WL 3466312, *8. For a noncitizen otherwise eligible for release under § 1226(a), custody proceedings and decisions may not be arbitrary, irrational, irrelevant or unreasonable. Custody proceedings and decisions

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must comport with the interest in being free from physical detention which is the "most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

FACTUAL BACKGROUND

DHS's Oregon Operations: Black Rose

43. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

44. In late May, Respondent Secretary Noem and White House Deputy Chief of Staff Stephen Miller met with ICE leadership, setting a new arrest quota of 3,000 arrests per day and reportedly threatening job consequences if officials failed to meet arrest quotas.[3]

[3] Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant Crackdown*, The Wall Street Journal (June 9, 2025), https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877; Julia Ainsley, et al., *A sweeping new ICE operation shows how Trump's focus on immigration is reshaping federal law enforcement*, NBC News (June 4, 2025), https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigration-reshape-federal-lawenforcement-rcna193494; Brittany Gibson & Stef W. Kight, Scoop: Stephen Miller, Noem tell ICE to supercharge immigration arrests, Axios (May 28, 2025), available at https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller.

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45. On May 28, Miller confirmed that "[u]nder President Trump's leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day."[4]

46. Following the directive from Noem and Miller, ICE agents were instructed in an e-mail to "turn the creativity knob up to 11" and aggressively "push the envelope" in arrests, including by pursuing "collaterals"—individuals who by definition would not have warrants.[5] As another e-mail put it: "If it involves handcuffs on wrists, it's probably worth pursuing."[6]

47. The overriding message, communicated by and to Respondents, is that agents and officers carrying out immigration operations on the ground must prioritize arrest numbers, regardless of the law. As one ICE official put it earlier this year, all that matters is "numbers, pure numbers, [q]uantity over quality."[7]

48. The District Court for the District of Oregon recently found that DHS implemented these practices in Oregon. *M-J-M-A- v. Hermosillo*, 6:25-cv-02011-MTK, Dkt. 88

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[4] Hannity, *Stephen Miller says the admin wants to create the strongest immigration system in US History*, FOX NEWS (May 28, 2025), available at https://www.foxnews.com/video/6373591405112 (last visited Aug. 24, 2025).

[5] José Olivares, *US immigration officers ordered to arrest more people even without warrants*, The Guardian (June 4, 2025), https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests.

[6] José Olivares, *US immigration officers ordered to arrest more people even without warrants*, The Guardian (June 4, 2025), https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests.

[7] Jennie Taer, *Trump admin's 3,000 ICE arrests per day quota is taking focus off criminals and 'killing morale': insiders warn*, NY Post, June 17, 2025, https://nypost.com/2025/06/17/us-news/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killing-morale-insiders/, https://perma.cc/DB9R-MJUC (last visited Oct. 15, 2025) ("The Trump administration's mandate to arrest 3,000 illegal migrants per day is forcing ICE agents to deprioritize going after dangerous criminals and targets with deportation orders, insiders warn. Instead, federal immigration officers are spending more time rounding up people off the streets, sources said. 'All that matters is numbers, pure numbers. Quantity over quality,' one Immigrations and Customs Enforcement insider told The Post.").

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at 2 (D.Or. Feb. 27, 2026). The Court found that "[t]o serve the President's demands for 3,000 immigration arrests each day nationally" ICE officers deployed to Oregon communities and arrested an "extraordinary" number of Oregonians beginning in October 2025. *Id.* at 5.

49. The District Court for the District of Oregon found that "ICE officers traveled to Portland, Oregon from their usual duty stations in Arizona, California, Colorado, Minnesota, and Nebraska…to come to Oregon to assist with street arrests and conduct at-large enforcement—finding, locating, and targeting people that are undocumented here in the Portland, Oregon, or Washington area. *Id.* at 6. Enforcement operations in Oregon during this time were variously called "Operation Fortifying the Border," "Operation Black Rose," "Operation Portland Safe," and "Operation Portland Sweep." *Id.*

50. DHS agents "[l]and[] in [Oregon] communities, officers surveil apartment complexes in the early morning hours, scan license plates for details about the vehicles' owners, and wait for them to get into their vehicles. Officers then stop, arrest, detain and transport people out of the District of Oregon to" Tacoma. *Id*. at 2.

51. According to "[s]worn testimony and substantial evidence before [the MJMA court] show that ICE officers ask few questions and allow little time before shattering windows, handcuffing people, and detaining them at an ICE facility in another state." *Id.*

Petitioner's Background and Prior 8 U.S.C. § 1226 Proceedings

52. Petitioner is a single mother of two minor children, one of whom is a U.S. citizen. Petitioner's Declaration in Support of Petition for Writ of Habeas Corpus ("Petitioner's Decl.") ¶¶ 2; 9. Ms. Escalante Perez's country of origin and citizenship is Guatemala. Petitioner's Decl. *Id.* at ¶ 2. Ms. Escalante Perez's primary language is Mam, an indigenous Guatemalan language. *Id.*

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53. Tragically, in Guatemala, Ms. Escalante Perez was raped by multiple gang members when she was 14 years old; she suffered severe domestic violence at the hands of her then-partner; and she was again attacked and raped by multiple men at age 17. *Id.* at ¶ 3. When she was 18 years old, in or around October of 2015, Ms. Escalante Perez entered the U.S. without inspection with her daughter in order to seek asylum.[8] *Id.* at ¶¶ 2-3. Ms. Escalante Perez presented herself to the first immigration agents she could find upon crossing into the United States and she and her daughter were briefly held in DHS custody before being released on their own recognizance.[9]

54. Ms. Escalante complied with the conditions of her release for years and years: she attended in-person reporting, completed telephonic reporting, attended her immigration court hearings. DHS stepped down her release conditions by removing the electronic ankle monitor.[10] Petitioner's Decl. at ¶ 4.

55. DHS placed Ms. Escalante Perez in removal proceedings under 8 U.S.C. § 1226 subsequent to her entry into the country in 2015.[11] *Id.* at ¶ 8.

56. She was fully compliant with the process before the Portland Immigration Court.

57. She timely filed an application for asylum, she retained counsel to represent her in the proceedings, and she dutifully attended *all* scheduled hearings. *Id.*

[8] Pritchard Decl., Ex. 4; Petitioner's DHS Form I-213, Record of Deportable/Inadmissible Alien (dated August 7, 2025).
[9] Pritchard Decl., Ex. 1, Petitioner's DHS Form I-220A, Order of Release on Recognizance (dated Oct. 25, 2015).
[10] Pritchard Decl., Ex. 1; Petitioner's DHS Form I-220A, Order of Release on Recognizance (dated Oct. 25, 2015).
[11] Pritchard Decl., Ex. 4; Petitioner's DHS Form I-213, Record of Deportable/Inadmissible Alien (dated August 7, 2025).

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58. Sadly, during this time, Ms. Escalante Perez was contemporaneously experiencing domestic violence at the hands of her then-partner, the father of her U.S. citizen son. *Id.* at ¶ 5. Ms. Escalante Perez entered into a relationship with her son's father in or around 2019. *Id.* He was physically abusive and controlling towards Ms. Escalante Perez, at times limiting her ability to leave the home and sometimes confiscating her phone so that she couldn't call for help. *Id.* Ms. Escalante Perez's ex-partner was arrested and charged for acts of domestic violence against Ms. Escalante Perez, including kidnapping and felonious assault, in 2021 and 2024.[12] *Id.*

59. At no time, at no moment, in any fashion did DHS ever indicate, describe or raise to her any issues regarding her compliance with the conditions of release.

60. Indeed, DHS determined that the facts and circumstances of her case merited a cessation of the removal process against her.[13] Petitioner's Decl. at ¶ 8. Counsel for DHS joined Ms. Escalante Perez's immigration counsel in a motion to terminate Ms. Escalante Perez's case.[14] *Id.* The immigration judge granted the joint motion to terminate the removal case against Ms. Escalante on January 30, 2023.[15] *Id.*

61. Ms. Escalante Perez has no criminal history. *Id.* at ¶ 10.

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[12] Pritchard Decl., Ex. 12, records from the criminal cases brought against Petitioner's abusive ex-partner relating to domestic violence he committed against Petitioner and Petitioner's minor child daughter; *see also* Pritchard Decl., Ex. 13, Petitioner's Form I-918, Supplement B, U Nonimmigrant Status Certification, signed by Sergeant Shawn Hershberger of the Woodburn Police Department, certifying under oath that Petitioner was the victim of several U-qualifying crimes including domestic violence, felonious assault, and kidnapping (dated Sept. 29, 2025).

[13] Pritchard Decl., Ex. 2; Joint Motion to Dismiss Petitioner's § 1226 removal proceedings commenced after her 2015 entry.

[14] *Id.*

[15] Pritchard Decl., Ex. 4; Petitioner's DHS Form I-213, Record of Deportable/Inadmissible Alien (dated August 7, 2025).

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Petitioner's Arrest

62. On August 7, 2025, Ms. Escalante Perez was on her way to work when DHS officers pulled over the van in which she was a passenger. Petitioner's Decl. ¶ 10. Agents surrounded the van, broke the driver's side window, and pulled the driver out of the vehicle before turning their attention to Ms. Escalante Perez and the other passengers. *Id.* Ms. Escalante Perez followed the officers' orders and did not attempt to flee. *Id.* The agents pulled her out of the van and put her in handcuffs. *Id.* She gave the agents her name and explained to them that her removal proceedings had been terminated. *Id.* Nonetheless, the officers loaded her into one of their vehicles to transport her to the Portland ICE field office. *Id.* at ¶ 10-13. Ms. Escalante Perez told the officers she was a single mother, and when she began crying, one of the agents responded dismissively, telling her "quiet down, lady!" *Id.* at ¶ 12.

63. At the Portland ICE office, officers took Ms. Escalante Perez's fingerprints and an agent verbally acknowledged that DHS' systems reflected that the removal case against Ms. Escalante Perez had been closed, but the agent informed her that, regardless, she would be transported to the NWIPC in Tacoma, Washington. *Id.* at ¶ 14. During her processing at the Portland ICE office, an agent attempted to get Ms. Escalante Perez to sign a voluntary departure form, but she refused. Petitioner's Decl. at ¶ 14.

64. None of the agents asked whether Ms. Escalante Perez had been the victim of a crime in the United States. *Id.*

65. At no point during Ms. Escalante Perez's arrest and processing at the Portland ICE office did any officer call an interpreter who speaks Ms. Escalante Perez's language, Mam. *Id.* at ¶ 16.

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66. Respondents transferred Ms. Escalante Perez to the Northwest ICE Processing Center in Tacoma, Washington on the same day of her arrest, and she has remained detained there in the over seven months since. *Id.* at ¶ 17.

67. On October 24, 2025, an immigration judge denied Ms. Escalante Perez's asylum application and ordered her removed. *Id.* at ¶ 19. Ms. Escalante Perez's counsel timely filed an appeal of that decision with the Board of Immigration Appeals, and that appeal is currently pending.[16] *Id.*

68. In November of 2025, Ms. Escalante Perez submitted an application for a U Visa,[17] an immigration benefit for individuals who have been the victim a serious crime in the United States which creates a pathway to lawful permanent residency.[18] *Id.* at ¶ 21. In support of Ms. Escalante Perez's U visa application, a sergeant from the Woodburn Police Department certified that she was the victim of domestic violence, kidnapping, and felonious assault at the hands of her ex-partner.[19] Ms. Escalante Perez's U visa application remains pending before U.S. Citizenship and Immigration Services ("USCIS") at this time. Petitioner's Decl. at ¶ 21.

[16] Pritchard Decl., Ex. 12; Receipt Notice for Petitioner's pending appeal of her removal order (dated Oct. 29, 2025).

[17] Pritchard Decl., Ex. 7; Petitioner's evidentiary submission to the Tacoma Immigration Court in support of her request for release on bond (filed on Dec. 5, 2025).

[18] "We Need U: How the U Visa Builds Trust, Counters Fear, and Promotes Community Safety," Human Rights Watch (Dec. 2, 2025), available at https://www.hrw.org/report/2025/12/02/we-need-u/how-the-u-visa-builds-trust-counters-fear-and-promotes-community-safety (last visited Mar. 17, 2026).

[19] Pritchard Decl., Ex. 13; Petitioner's Form I-918, Supplement B, U Nonimmigrant Status Certification, signed by Sergeant Shawn Hershberger of the Woodburn Police Department, certifying under oath that Petitioner was the victim of several U-qualifying crimes including domestic violence, felonious assault, and kidnapping (dated Sept. 29, 2025).

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Petitioner's Prior Habeas Proceedings

69. Beginning in July, 2025, Respondent DHS adopted a policy of mandatory detention directly at odds with the INA.[20] *Maldonado-Bautista v. Santacruz*, —F.Supp.3d—, 2025 WL 3713987 *12 (C.D. Cal. 12/28/2025).

70. This policy was later adopted by EOIR in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and subsequently deemed unlawful. *Rodriguez Vasquez v. Bondi*, 779 F.Supp. 3d 1239 (W.D. Wash. 2025); *Maldonado-Bautista v. Santacruz*, —F.Supp. 3d—, 2026 WL 468284, *10 (C.D. Cal. Feb. 18, 2026).

71. On October 21, 2025, Ms. Escalante Perez filed a group petition for writ of habeas corpus along with several other noncitizen detainees arguing that her detention violated the U.S. Constitution and the INA, and that she was entitled to a bond hearing under 8 U.S.C. § 1226(a) as a member of the Bond Denial Class certified in *Rodriguez Vazquez v. Bostock,* 779 F. Supp. 3d 1239 (W.D. Wash. 2025 and *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). *Del Valle Castillo, et. al. v Wamsley*, 2:25-cv-02054-TMC, Dkt. 1 (W.D. Wash. Oct. 21, 2025).[21]

72. On November 26, 2025, United States District Judge Tiffany M. Cartwright granted Ms. Escalante Perez's habeas petition.[22]

[20] U.S. Immigr. & Customs Enf't, *ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last visited Mar. 6, 2026).

[21] Pritchard Decl., Ex. 5, Petitioner's Petition for Writ of Habeas Corpus, Case No. 2:25-cv-02054 (filed on October 21, 2025)

[22] Pritchard Decl., Ex. 6; U.S. District Court Judge Tiffany M. Cartwright's Order Granting Petitioner's Petition for Writ of Habeas Corpus, Case No. 2:26-cv-00125 (dated November 26, 2025).

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73. In granting the petition, the Court affirmed that Ms. Escalante Perez is "subject to discretionary detention under § 1226(a)."[23] *Del Valle Castillo, et. al. v Wamsley*, Dkt. 28 at 11 (W.D. Wash. Nov. 26, 2025).

74. The Court ordered Respondents to provide Ms. Escalante Perez a bond hearing under 8 U.S.C.§1226(a).[24] *Id.* at 17.

Petitioner's Post-Habeas IJ Custody Proceeding & Agency Decision

75. DHS, a respondent in the habeas action, did not make an initial custody determination under 8 U.S.C. § 1226(a) as required by regulation. 8 C.F.R. § 1236.1(c)(8).

76. Instead, on December 9, 2025, 2026, fourteen days after this Court's order, Ms. Escalante Perez was provided a bond hearing before Immigration Judge John Odell at the Tacoma Immigration Court. Petitioner's Decl. at ¶ 22. She was represented by counsel Rachel Game of Game Immigration Law.[25] No Mam language interpreter was present at the hearing, and as such, there was no real-time interpretation of the proceeding into Ms. Escalante Perez's language, and Ms. Escalante Perez did not comprehend most of what was stated during the proceedings. Petitioner's Decl. ¶ 18.

77. Upon information and belief, the proceeding was not audio-recorded and no transcript was created.[26]

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[23] *Id*.
[24] *Id*.
[25] Pritchard Decl., Ex. 7, Petitioner's evidentiary submission to the Tacoma Immigration Court (filed by her Immigration Counsel Rachel Game) in support of her request for release on bond (filed on Dec. 5, 2025).
[26] Pritchard Decl., Ex. 10; Email from Petitioner's counsel (dated March 19, 2026) to the Tacoma Immigration Court requesting a digital audio recording of the bond hearing, and attestation that a clerk from the Tacoma Immigration Court affirmed no audio recording nor transcript were made for Petitioner's December 9, 2025 bond hearing.

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78. Ms. Escalante Perez's hearing lasted only a few minutes. Petitioner's Decl. ¶ 18.

79. Ms. Escalante Perez's counsel submitted an 81-page bond evidence packet to the immigration court, which was received into the record.[27]

80. The record established the following uncontested facts: Ms. Escalante Perez has resided in the country for 21 years; she has strong family ties here, including her two minor children, one of whom is a U.S. citizen; she has a U visa application pending and her U visa filing included a law enforcement certification affirming that she was the victim of at least three U-visa qualifying crimes (domestic violence, felonious assault, and kidnapping), which demonstrates her *prima facie* eligibility to receive U non-immigrant status; she has no criminal record; she was fully compliant in attending all of her scheduled hearings while she was released and living in the community during the pendency of her previous § 1226 case; and, she has never attempted to flee prosecution or escape from authorities.[28] The record also showed that a little over decade ago, Ms. Escalante Perez crossed the U.S. Mexico border without inspection.[29]

81. The bond evidence packet further included documentation, such as: proof of Ms. Escalante Perez's identity; birth certificates for Ms. Escalante Perez's children; a psychological evaluation for Ms. Escalante Perez's 13-year-old daughter, showing that she is suffering from "significant impairment in psychosocial functioning" and has been diagnosed with post-traumatic stress disorder in the wake of Ms. Escalante Perez's detention; letters from Ms. Escalante Perez's Lawful Permanent Resident stepbrother and the principal of her 5-year-

[27] Pritchard Decl., Ex. 7, Petitioner's evidentiary submission to the Tacoma Immigration Court in support of her request for release on bond (filed on Dec. 5, 2025).
[28] Pritchard Decl., Ex. 7, Petitioner's evidentiary submission to the Tacoma Immigration Court in support of her request for release on bond (filed on Dec. 5, 2025).
[29] Pritchard Decl., Ex. 3, DHS Form I-213 (dated January 10, 2026).

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old son's school, attesting to the symptoms of distress they have observed in her son since she was detained; and proof of her children's enrollment in Woodburn, Oregon public schools.[30]

82. The DHS did not contest these facts.

83. At the conclusion of the hearing, the Immigration Judge issued the following written decision:

> **Order:**
> [X] ORDERED that the request for a change in custody status be denied. No bond.
> [X] Flight Risk […]
> [X] OTHER: Conditional release is: denied. [31]

84. Upon information and belief, the written decision is the *only* contemporaneous record of the agency action because there is no recording or transcript of the hearing.

85. The decision indicated that Ms. Escalante Perez reserved appeal.[32]

86. Ms. Escalante Perez's counsel filed an administrative appeal of the Immigration Judge's no-bond decision on March 17, 2026.[33]

Petitioner's Continued Detention and the Futility of the Administrative Appeal

87. The Board of Immigration Appeals (BIA) is an administrative body within the Executive Office for Immigration Review, a Justice Department component. 8 C.F.R. § 1003.1(d)(1).

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[30] Pritchard Decl., Ex. 7, Petitioner's evidentiary submission to the Tacoma Immigration Court in support of her request for release on bond (filed on Dec. 5, 2025).
[31] Pritchard Decl., Ex. 8; Immigration Judge John Odell's Order denying Petitioner's request for release on bond (dated December 9, 2025).
[32] Pritchard Decl., Ex. 8; Immigration Judge John Odell's Order denying Petitioner's request for release on bond (dated December 9, 2025).
[33] Pritchard Decl., Ex. 10; Notice of Receipt for the appeal Petitioner commenced to challenge Immigration Judge John Odell's 12/09/2025 Order denying Petitioner's request for release on bond (dated March 18, 2026)

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88. The BIA adjudicates administrative appeals of Immigration Judge bond decisions. 8 C.F.R. § 1236.1(d)(3).

89. The BIA process is long, and the lengthy delays in adjudication often moot pending bond appeals before they are adjudicated.

90. In 2024, EOIR data showed an average processing time of 204 days for bond appeals. *Rodriguez v. Bostock*, 802 F. Supp. 3d 1297, 1307 (W.D. Wash. 2025). Between 2015 and 2024, bond appeal cases took a year or longer to resolve. *Id.*

91. During the time it takes the BIA to resolve the bond appeal, most detainees claims are mooted by adjudications in their removal proceedings. *Id.*

92. All immigration courts, including the immigration court that heard Ms. Escalante Perez's habeas-ordered bond hearing, are "equipped with recording devices and routinely record merits hearings." *Singh*, 638 F.3d at 1209.

93. However, as a matter of policy, "[b]ond hearings are seldom recorded and are not routinely transcribed." BIA Practice Manual, Chap. 7.3(b)(ii) (last revised Nov. 14, 2022).

94. There is irreparable harm caused by Petitioner's unnecessary detention. Petitioner's 13-year-old daughter has been diagnosed with PTSD and is suffering "significant impairment in psychosocial functioning" in the wake of her mother's detention.[34] The trauma that Petitioner's daughter is experiencing is compounded by the fact that her daughter already experienced significant trauma, including witnessing the domestic violence Petitioner suffered at the hands of her ex-partner.[35] Petitioner's 5-year-old son has also experienced harm as a result

[34] Pritchard Decl., Ex. 7, Petitioner's evidentiary submission to the Tacoma Immigration Court in support of her request for release on bond (filed on Dec. 5, 2025).

[35] *Id.*

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of Petitioner's detention. Educators at the elementary school where he attends kindergarten have noticed "significant emotional and academic hardship due to the absence of his mother."[36]

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Procedural Due Process

Failure by DHS to conduct individualized determination

(Against DHS Respondents)

95. Petitioner restates and realleges all paragraphs as if fully set forth here.

96. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

97. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

98. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a), this discretion is not "unlimited" and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

99. Under the Due Process Clause, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527 (quoting *Zadvydas*, 533 U.S. at 690).

[36] *Id.*

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100. Petitioner's detention does not bear a "reasonable relation" to either preventing flight risk or preventing danger to the community.

101. Respondents' failure to conduct an individualized custody determination and provide an opportunity for Petitioner to be heard in that process prior to or contemporaneous with Petitioner's detention violates her due process rights.

COUNT TWO

Violation of Fifth Amendment Right to Procedural Due Process

Failure by Immigration Court to conduct fair custody redetermination

(Against DOJ Respondents)

102. Petitioner restates and realleges all paragraphs as if fully set forth here.

103. "Freedom from imprisonment—from government custody, detention or other forms of physical restraint—lies at the heart of the liberty that [Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

104. Under the Due Process Clause, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527 (quoting *Zadvydas*, 533 U.S. at 690).

105. Petitioner's detention does not bear a "reasonable relation" to either preventing flight risk or preventing danger to the community.

106. The Immigration Judge's failure to provide a basis for his conclusion of "no bond"—a *de facto* order of mandatory detention—violates the Petitioner's due process rights. There are no circumstances in which the IJ could plausibly establish that the Petitioner posed a flight risk. And indeed the IJ did not attempt to provide any reasoned explanation or purported justification of his flight risk finding.

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107. Moreover, as applied to the facts here, Ms. Escalante Perez was entitled as a matter of due process, to a contemporaneous recording or transcript of the bond proceedings. The Respondents have previously been found to have violated her constitutional and statutory rights by unlawfully depriving her of an individualized release decision. Accordingly, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT THREE

Violation of the Immigration and Nationality Act and Bond Regulations – Unlawful Denial of Release on Bond

(Against all Respondents)

108. Petitioner restates and realleges all paragraphs as if fully set forth here.

109. Section 1226(a) is the statutory authority for detaining Ms. Escalante Perez "pending a decision on whether [she] is to be removed from the United States." It affords her a right to a fair, individualized bond hearing. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

110. The DHS has failed entirely to provide a reasoned basis for the exercise of its detention authority.

111. The Immigration Judge has failed to provide any facts or probative and reasonable basis for the IJ's "no bond" determination.

112. Respondents have violated §1226(a) and its implementing regulations by detaining Petitioner since her arrest without providing her a fair, individualized release determination that the statute and regulations mandate.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court grant the following:

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1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
3. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA, and the implementing regulations;
4. Declare that Respondent EOIR violated Petitioner's constitutional and statutory rights by failing to record the bond hearing and failing to provide any contemporaneous decision explaining the results;
5. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody;
6. In the alternative, issue an order compelling Respondent DHS to provide Petitioner an individualized determination—and a meaningful opportunity for her to be heard in the determination process—of her eligibility for release within three days;
7. In the alternative, conduct a hearing before this Court to determine whether Petitioner presents a flight risk or danger that justifies continued detention;
8. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
9. Grant any further relief this Court deems just and proper.

Dated: March 20, 2026.

s/Miguel Cardenas de Avila

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**Motion for Pro Hac Vice Forthcoming*