WILLIAM B. SHIPLEY, ESQ.
IMMIGRATION GENERAL SERVICES LLC
20 N. WACKER DRIVE SUITE 1000
CHICAGO, IL 60606
PH.: 312-719-1179
EMAIL: WILLIAM@IMMIGRATIONGENERALSERVICES.COM
NEW YORK ATTORNEY REGISTRATION #5223227

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

NELVE ANDREA MORENO NINO
(Alien Case File Number [redacted],

PETITIONER,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY (DHS);
KRISTI NOEM, Secretary, DHS (in her official capacity);
PAMELA BONDI, Attorney General of the United States (in her official capacities);
DIRECTOR, CHICAGO FIELD OFFICE, ICE ENFORCEMENT AND REMOVAL OPERATIONS (ICE ERO) (in their official capacity);

RESPONDENTS.

Civil Action Case No. 1:25-cv-25-15016

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

MANDAMUS (28 U.S.C. § 1361) AND OTHER INJUNCTIVE RELIEF

INTRODUCTION

1. Petitioner is an asylum-seeking claimant and national of Colombia and Venezuela with an affirmative asylum petition pending before USCIS who suffered a mental health crisis following Respondents arresting her and taking her into physical custody, which crisis risks repetition in the event that immediately impending enforcement action contemplated by Respondents would present unnecessary risk to her life and safety that is not constitutionally permissible to accomplish policy goals when less-restrictive means are available.
2. This Petition seeks immediate relief to prevent any action that would occasion another unreasonable risk to her life and safety as a result of administrative immigration enforcement actions on the part of Respondents when less-intrusive means that do not present an immediate risk to her life and safety are available, as the exercise of authority that has already precipitated a medical emergency should not be repeated without appropriate care having been taken and without an appropriate administrative process to determine the appropriateness and legality of such action which, under these circumstances, are not constitutionally justifiable (i.e. when Petitioner has no active proceedings and detention would put Petitioner's life and safety at risk).

JURISDICTION AND VENUE

3. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question), the APA (5 U.S.C. §§ 701–706), the Mandamus Act (28 U.S.C. § 1361), and the All Writs Act (28 U.S.C. § 1651). The Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, authorizes the requested declarations.
4. This action does not seek judicial review of an order of removal and does not ask this Court to decide any issue committed to the court of appeals under 8 U.S.C. § 1252. It seeks relief from the unlawful execution of a removal order in violation of a mandatory stay and to preserve the BIA's appellate jurisdiction. These are collateral, non-final-order issues within this Court's § 1331 and equitable powers.

PARTIES

5. Petitioner NELVE ANDREA MORENO NINO is a noncitizen and affirmative applicant for asylum protection before USCIS, a constituent agency of Respondent U.S. DEPARTMENT OF HOMELAND SECURITY. She is hospitalized at NORTHWESTERN MEMORIAL HOSPITAL in Chicago, Illinois, and, to the best of her knowledge and awareness, has no removal proceedings pending or any prior orders of removal (administrative or final).
6. Respondents are the U.S. DEPARTMENT OF HOMELAND SECURITY ("DHS"), its chief federal officer DHS SECRETARY KRISTI NOEM, its constituent agencies the office of U.S. Customs and Immigration Enforcement ("ICE"), its Division of Enforcement and Removal Operations ("ERO") responsible for the CHICAGO FIELD OFFICE and its DIRECTOR, and the UNITED STATES OF AMERICA. Each acted under color of federal law; all are sued in their official capacities only.
7. Respondent U.S. ATTORNEY GENERAL PAMELA BONDI is responsible for exercising authority delegated under the INA including authority over the constituent agencies of the U.S. DEPARTMENT OF JUSTICE responsible for immigration matters, specifically the EXECUTIVE OFFICE OF IMMIGRATION REVIEW (EOIR) and its respective Immigration Courts.

RELEVANT FACTS AND BACKGROUND

8. Petitioner is an asylum-seeking claimant and national of Colombia and Venezuela with an affirmative asylum petition pending before USCIS (Receipt Number [redacted]) and the revocation of her Temporary Protected Status (A[redacted], USCIS Receipt Number [redacted]). Petitioner has no pending removal proceedings before the Executive Office of Immigration Review and no administrative or final orders of removal. Her alien case file number ("A#") is [redacted]

9. Petitioner seeks relief from an impending enforcement action by Respondents U.S. Department of Homeland Security ("DHS), its constituent agency the U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT ("ICE") and its subdivision DHS ICE ERO - CHICAGO FIELD OFFICE and agents of that office charged with enforcement of those provisions of the *Immigration and Nationality Act* [8 U.S.C. §§ 1101 *et seq.*]
10. Petitioner suffered a mental health crisis following her being taken into custody by Respondents DHS and the ICE ERO CHICAGO FIELD OFFICE on November 3rd, 2025. After initially losing consciousness upon her arrest, Petitioner was denied immediate assistance by agents of Respondent who aggravated the situation by mocking and laughing at her acute medical health needs (specifically, her loss of consciousness). This in combination with her being taken into custody following fears of having seen others taken into custody, as well as the extensive and heavy-handed enforcement actions taking place in and around the City of Chicago in recent months, occasioned her to attempt to take her own life out of fear of being detained and the circumstances of her detention and the treatment in detention she feared being subjected to in light of the prior callous disregard shown to her by agents of Respondent.
11. Petitioner was subsequently hospitalized in the Psychiatric Unit of Northwestern Memorial Hospital following her arrest and being taken into custody on November 3rd, 2025. Petitioner has remained hospitalized out of fear of being returned to Respondents' physical custody.
12. Petitioner has a pending asylum proceeding and has not been charged with removability by DHS before the Executive Office of Immigration Review ("EOIR") nor had (to the best of Petitioner's knowledge and awareness) any formal assessment or determination of whether enforcement action under these circumstances is appropriate or legal, and/or whether less-restrictive measures that do not pose immediate risk to her health and safety are available.
13. Petitioner has been unable to post a request for bond because she has no proceedings before the EOIR wherein such requests for bond consideration would typically be heard and initiated.

COUNT I - REQUEST FOR WRIT OF HABEAS CUSTODY GRANTING RELIEF FROM RESPONDENTS' PHYSICAL CUSTODY

14. The authority delegated by Congress to RESPONDENTS via the INA does not extend so far as to allow unnecessary risk to the life and safety of persons subject to administrative detention in pursuit of those policy objectives stipulated in the INA and its accompanying regulations;
15. This is especially true where no administrative removal proceedings have been initiated to provide a forum to decide on whether she is, in fact, a removable alien, and when no charging document alleging removability have been present or EOIR proceedings initiated.
16. To seek and effectuate the physical custody and/or transport of Petitioner from her family, her medical caretakers, and her support systems, are a clear violation of the Fifth Amendment Due Process clause and the Suspension Clause, for which a Writ of Habeas Corpus is the appropriate relief for the fact and circumstances of Respondents' unlawful exercise of legal custody over Petitioner; see 8 U.S.C. §§ 2241 et seq.]; see e.g. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008); *Miranda v. Cty. of Lake*, 900 F.3d 335; 2018 U.S. App. LEXIS 222299; 2018 WL 3796482 [*Miranda*].
17. Petitioner may face another such crisis in the event of future heavy-handed enforcement action at the hands of the agents of Respondent, in particular, notice she received that agents of Respondent will seek to return her to their physical custody TODAY, December 10th, 2025.
18. This habeas petition challenges the legality of Petitioner's civil immigration detention and seeks either (1) release under appropriate conditions, or (2) a prompt and meaningful individualized custody hearing under 8 U.S.C. § 1226(a) at which the Government bears the burden, by clear and convincing evidence, to justify detention and the decisionmaker must consider ability to pay and less-restrictive alternatives. Petitioner's life and safety are at risk due to an impending enforcement action taking Petitioner into the physical custody of Respondents.

COUNT II - CONSTITUTIONAL DUE PROCESS PROTECTIONS AGAINST UNNECESSARILY COERCIVE ADMINISTRATIVE ENFORCEMENT MEASURES

19. PETITIONER is an affirmative asylum-seeker who has not violated any laws of the United States or had any history of immigration enforcement avoidance or unlawful entry, which application was timely filed with USCIS (Receipt [redacted], A# [redacted]) with a USCIS receipt notice date of 10/20/2023.
20. Petitioner had been previously enrolled in the Alternative to Detention program and released on her own recognizance in December 2022.
21. Petitioner has since complied with all prior immigration notices, laws, and orders to present herself to Respondent for their inspection.
22. Petitioner was nonetheless taken into custody without any process to determine whether or why her previous ATD status would be revoked or what factual basis exists for such revocation, particularly when Respondents are aware of Petitioner's prior compliance as well as the extreme negative impact their prior treatment and attempt to exercise physical custody and restraint over her, specifically, her loss of consciousness and attempted suicide.
23. Respondents continued attempt to take Petitioner into custody in light of these events when she has no removal proceedings or order of removal or charge of removability constitute an unlawful deprivation of Petitioner's life, safety, freedom of movement and association with family, and ability to maintain continuity of care for her mental health care. These constitute deprivations to rights under the U.S. Constitution not to be deprived of life, liberty, or property without due process of law or some procedure appropriate to weigh the risks that administrative enforcement action present to her life and safety.

COUNT III - IMMEDIATE EMERGENCY INJUNCTIVE RELIEF AND RESTRAINING ORDER

24. The above prior paragraphs are hereby incorporated by reference to the present count.
25. PETITIONER seeks temporary relief from Respondents efforts to place her back into their detention and physical custody - the very circumstances that prompted Petitioner to harm herself.
26. Petitioner seeks therefor immediate injunctive relief to preserve the *status quo ante* her being taken into custody on November 3rd, 2025, namely: to allow for her physical release from custody and continued participation in the ATD program, absent a demonstrable change in her circumstances on the part of Respondents DHS and ICE ERO CHICAGO FIELD OFFICE, pending the adjudication of her affirmative asylum application.
27. Petitioner requests this Honorable Court ENJOIN Respondents against taking any further enforcement action or attempts to bring her into their custody absent the appropriate issuance of a charging document such as a Notice to Appear alleging her removability and an opportunity for her to present evidence that her detention would not be constitutionally permissible under the circumstances.
28. Failure to grant the relief would present an unreasonable risk to Petitioner's life and safety. Applying the factors from *Matthews v. Eldridge*, the factors favor Petitioner. There is no evidence of her flight risk or non-compliance with Respondents' administrative orders and proceedings, whereas there is significant and direct evidence of the harm she would suffer if not relieved from RESPONDENTS continued attempts to exercise physical custody and physical restraint over her, as well as to transfer her against her will to places far away from her family and adequate medical care.
29. For these reasons, this Court should enjoin further enforcement action until such time as a meaningful opportunity can be had for Petitioner to present evidence as to why she should not be subject to forced detention at the risk of her health, safety, and mental well-being.
30. The Court should hold that Petitioner's detention is unlawful, absent a prompt and meaningful custody hearing under § 1226(a), violates due process, or enjoin RESPONDENTS from taking

further harmful action unless and until such time as these matters can be appropriately adjudicated.

REQUESTED RELIEF

For the reasons above and those stated in the Petition, Petitioner respectfully requests that this Honorable Court:

1. Declare that Petitioner is not subject to detention until such time as she has a custody hearing to determine the appropriateness of the conditions her custody;
2. Order Petitioner's immediate release from Respondents' legal and physical custody under appropriate conditions of supervision, pending adjudication of the USCIS asylum application;
3. In the alternative, order Respondents to provide Petitioner with a prompt, individualized bond hearing, within a short, specified period, before an Immigration Judge, at which:
    a. The Government bears the burden of proving by clear and convincing evidence that continued detention is necessary to prevent flight or danger.
    b. The Immigration Judge must consider Petitioner's ability to pay and whether conditions of supervision can reasonably address Respondent's concerns; and,
    c. a reasoned decision must be issued on the record; or
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this day the 10th of December, 2025, by Counsel to Petitioner,

/s/ William Shipley

WILLIAM B. SHIPLEY, ESQ.
IMMIGRATION GENERAL SERVICES LLC
20 N. WACKER DRIVE, SUITE 1000
CHICAGO, IL 60606;
NEW YORK ATTORNEY #5223227