

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

GLORIA REGINA GARCIA PARRA,
Petitioner,

v.

DAVID FAVRO,
In his official capacity as Warden of
the Clinton County Jail;

JAMES BAUSCH,
In his official capacity as Acting
Deputy Field Office Director,
Buffalo Field Office, U.S.
Immigration & Customs
Enforcement;

PHILIP RHONEY,
In his official capacity as Acting
Field Office Director, Buffalo Field
Office, U.S. Immigration & Customs
Enforcement;

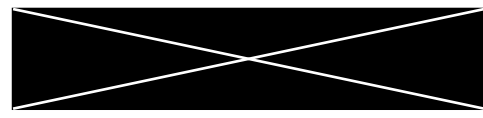
TODD LYONS,
In his official capacity as Acting
Director, U.S. Immigration and
Customs Enforcement;

PAMELA BONDI ,
In her official capacity as U.S.
Attorney General;

KRISTI NOEM,
In her official capacity as Secretary
of Homeland Security,

Respondents.

Civil Action No. 9:26-cv-363 AMN

Immigration No. 

**VERIFIED EMERGENCY
PETITION FOR WRIT OF
HABEAS CORPUS**

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PRELIMINARY STATEMENT

1. This matter involves an Ecuadoran national, Mrs. Gloria Regina Garcia Parra (“Mrs. Garcia”), who is married to a U.S. Citizen and has two U.S. Citizen children, and who is currently being held in ICE custody at the Clinton County Jail, after ICE detained her, upon information and belief, without a warrant, when she arrived at a USCIS office for a biometrics (fingerprinting) appointment. Respondents will purport to hold her under 8 U.S.C. § 1225(b)(2)(A) and/or 8 U.S.C. § 1231 and that she is, therefore, not entitled to due process or a bond hearing. However, Petitioner was denied due process because she was ordered removed by an immigration judge *in absentia* on or about May 13, 2010 at the Chicago Immigration Court after not receiving proper notice of that hearing. Petitioner challenges the constitutionality of her present detention without a bond hearing and asks this Court to enjoin Respondents from moving her outside of the jurisdiction or deporting her pending resolution of these matters.

FACTS

2. Mrs. Garcia entered the United States without inspection on or about April 30, 2009, after fleeing from her home country of Ecuador.

3. At the time of entry, she was apprehended by immigration authorities. Upon information and belief, she was released on a bond after her initial detention.

4. Upon information and belief, she does not have any criminal convictions.

5. Mrs. Garcia is married to a U.S. Citizen, Mr. Jose Casa Marca, and they have two U.S. Citizen children together. They reside in the Pittsfield, Massachusetts area.

6. Mrs. Garcia was placed into removal proceedings, and was scheduled for an immigration court hearing in Chicago, Illinois, but, upon information and belief was never given notice of that hearing and was therefore ordered removed *in absentia* on or about May 13, 2010 by an immigration judge.

7. Mrs. Garcia and her husband hired an immigration lawyer to pursue lawful status for her and, as a result of filing applications, were granted a biometrics appointment at the USCIS office in the Albany, New York area.

8. After arriving at USCIS earlier today, Mrs. Garcia was detained by Respondents.

9. Upon information and belief, Mrs. Garcia has pending applications for adjustment of status and protection under the Violence Against Women Act (VAWA) before USCIS.

10. Mrs. Garcia is presently detained in the custody of Respondents at the Malta ICE ERO Sub Office, without an individualized bond determination.

11. Upon information and belief, ICE has or will issue a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

12. Also, ICE is likely to imminently move Petitioner out of this judicial district.

13. Without relief from this Court, Petitioner faces the prospect of months, or even years, in immigration custody, or of being deported without having an opportunity to pursue due process.

14. The immigration court system has been compromised by the firings of roughly half of all immigration judges nationwide and by an immense amount of pressure placed upon the remaining judges to swiftly deport noncitizens without giving them due process.

15. Petitioner is likely to require federal court intervention to ameliorate the removal order that was issued against her *in absentia* in violation of her due process rights, yet, Respondents will not hesitate to swiftly deport her to Ecuador causing separation from her two young children and her U.S. Citizen husband.

16. Accordingly, Petitioner seeks a writ of habeas corpus. Petitioner challenges the constitutionality of her present detention without a bond hearing and asks this Court to enjoin Respondents from moving her outside of the jurisdiction or deporting her pending resolution of this matter. Further, Petitioner requests an order requiring her immediate release, or in the alternative, her immediate release unless Respondents provide a bond hearing under § 1226(a) within seven days, and properly place the burden of proof on the government to show by clear and convincing evidence that Petitioner is a flight risk or a danger to the community.

THE PARTIES

17. Petitioner is detained in the custody of ICE. She is being held at the Clinton County Jail, which is located in the Northern District of New York, under the auspices of the Acting Deputy Field Office Director based at the Buffalo Federal Detention Facility (BFDF) in Batavia, New York, which is a suboffice of the Buffalo, NY ICE Enforcement and Removal Operations (ERO) office. Her custody and governmental actions related to her removal are likewise controlled by the Buffalo Field office of ICE.

18. Respondent David Favro is the Sheriff of Clinton County, New York and as such is the warden of the Clinton County Jail. He is the immediate custodian of the Petitioner. His office is located at 25 McCarthy Drive, Plattsburgh, New York 12901.

19. Respondent James Bausch is the Buffalo, NY Acting Deputy Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. He is the local ICE official who has authority over the Petitioner. *See Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001). Respondent Bausch's office is at 250 Delaware Avenue, Floor 7, Buffalo, NY 14202 and/or at the Buffalo Federal Detention Facility, 4250 Federal Drive, Batavia, NY 14020.

20. Respondent Philip Rhoney is the Buffalo, NY Acting Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. He is the local ICE official who has authority over the Petitioner. *See Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001). Respondent Rhoney's office is at 250 Delaware Avenue, Floor 7, Buffalo, NY 14202 and/or at the Buffalo Federal Detention Facility, 4250 Federal Drive, Batavia, NY 14020.

21. Petitioner's custody and the governmental actions related to her potential removal from the district are likewise controlled by Respondents Lyons, Bondi, and Noem.

CUSTODY

22. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE") at the Clinton County Jail in Plattsburgh, New York. The Deportation Officer responsible for her case is stationed at the Buffalo Federal Detention Facility ("BFDF"). The Petitioner is under the direct care, custody and control of Respondents and their agents.

JURISDICTION & VENUE

I. SUBJECT MATTER JURISDICTION

23. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

24. This Court has jurisdiction under 28 U.S.C. § 2241, Art. 1, § 9, cl. 2 of the Constitution of the United States (the Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in

violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, the All Writs Act, 28 U.S.C. § 1651 and the Court's equitable habeas authority.

25. 8 U.S.C. §§ 1252(e)(3), 1252(g), and 1252(b)(9) do not bar the Court from exercising jurisdiction over a habeas corpus petition for a non-citizen detainee. *Lieogo v. Freden, et al.*, No. 6:25-CV-06615 EAW, 2025 WL 3290694 (W.D.N.Y. Nov. 26, 2025); see also *Mahdawi v. Trump*, 136 F.4th 443, 450 (2d Cir. 2025) (holding that unlawful detention claims are collateral to removal process and fall outside § 1252(g)'s narrow jurisdictional bar); *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 19 (2020) ("§ 1252(b)(9) does not present a jurisdictional bar where those bringing suit are not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be determined." (cleaned up)); *Jennings v. Rodriguez*, 583 U.S. 281, 295 n.3 (2018) ("The question is not whether detention is an action taken to remove an alien but whether the legal questions in this case arise from such an action. . . . [T]hose legal questions are too remote from the actions taken to fall within the scope of § 1252(b)(9).").

II. PERSONAL JURISDICTION

26. This Court has personal jurisdiction over Petitioner's immediate custodian (who is physically within the district).¹

III. VENUE

27. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.484, 493-500 (1973), venue lies in the United States District Court for the Northern District of New York,

¹ Petitioner asserts this Court has personal jurisdiction over the additional Respondents, however, in the interests of brevity, the Petitioner will brief this if (1) any governmental acts challenged herein are found to relate to those Respondents (instead of the immediate custodian) and (2) the Government seeks to argue against personal jurisdiction.

the judicial district in which Petitioner is being detained. Petitioner is being detained at the Clinton County Jail and her detention falls under the jurisdiction of the ICE Field Office of Buffalo, New York, which encompasses the area where Petitioner is being detained, pursuant to 28 U.S.C. § 1391.

CLAIMS FOR RELIEF

COUNT 1: VIOLATION OF DUE PROCESS

28. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

29. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

30. Petitioner has a fundamental interest in liberty and being free from official restraint.

31. The government’s detention of Petitioner based upon an *in absentia* order of removal, despite the pendency of her applications for lawful status based upon her marriage to a U.S. Citizen and being the mother of two U.S. Citizen children, violates her right to due process.

32. The immigration courts under this administration have essentially become “kangaroo courts” where due process is not respected, due to political pressure on immigration judges to satisfy the administration’s thirst for mass deportations. The only appropriate remedy for the current state of affairs is for immediate release to be ordered by federal judges, as the

current biased administrative tribunal does not comport with due process.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Prevent the Petitioner's removal outside of this judicial district until this action is decided;
- (3) Issue a temporary stay of Petitioner's removal until this action is decided;
- (4) Issue a writ of habeas corpus requiring that Respondents release Petitioner immediately, and not re-detain Petitioner without a pre-deprivation hearing with adequate advance notice, or in the alternative, that Respondents release Petitioner immediately pending a bond hearing to be held pursuant to 8 U.S.C. § 1226(a) within 7 days at which the government bears the burden to demonstrate, by clear and convincing evidence, that the petitioner is a danger to the community or a flight risk and at which the immigration judge must consider non-bond alternatives to detention or, if setting a bond, the petitioner's ability to pay;
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- (6) Fashion such additional relief as is necessary and appropriate, including declaratory relief or other interim relief necessary to vindicate Petitioners' rights under U.S. and international law.

Dated: March 6, 2026

/s/ Matthew K. Borowski

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

I represent Petitioner and submit this verification on Petitioner's 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: March 6, 2026

/s/ Matthew K. Borowski

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